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# Joint Working Agreement

[Version 1.0]

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[North West Fire & Rescue Control Project]

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Janet Henshaw

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**DATED**

**2011**

- (1) MERSEYSIDE FIRE & RESCUE AUTHORITY
- (2) CUMBRIA COUNTY COUNCIL
- (3) LANCASHIRE COMBINED FIRE AUTHORITY
- (4) CHESHIRE FIRE AUTHORITY
- (5) GREATER MANCHESTER FIRE & RESCUE AUTHORITY

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## **JOINT WORKING AGREEMENT**

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Relating to the collaborative provision of  
Fire & Rescue emergency control for the North West Region.

## CONTENTS

Clause	Page	
1	DEFINITIONS AND INTERPRETATION.....	5
2	PRINCIPLES AND KEY OBJECTIVES.....	9
3	PROJECT GOVERNANCE .....	11
4	DECISION MAKING.....	12
5	EVALUATION.....	13
6	COMMITMENT OF THE AUTHORITIES AND CONTRIBUTIONS.....	13
7	SITE.....	13
8	DUTIES OF THE AUTHORITIES.....	13
9	WITHDRAWAL.....	14
10	CONCLUSION OF THE JOINT WORKING AGREEMENT .....	14
11	DISPUTE RESOLUTION.....	14
12	INDEMNITY.....	16
13	COMMENCEMENT, DURATION AND TERMINATION .....	16
14	CONSEQUENCES OF TERMINATION.....	17
15	CONFIDENTIALITY AND ANNOUNCEMENTS.....	17
16	NO AGENCY OR PARTNERSHIP .....	19
17	CONTRACTORS (RIGHTS OF THIRD PARTIES) ACT 1999.....	19
18	ENTIRE AGREEMENT.....	19
19	INCONSISTENCY.....	20
20	SEVERANCE .....	20
21	WAIVER.....	20
22	AMENDMENTS.....	20
23	LAW AND JURISDICTION.....	20
24	NOTICES.....	20
25	COUNTERPARTS.....	21
26	COSTS.....	21

### Schedules

1	PROJECT/PROCUREMENT MILESTONES.....	23
2	DIRECTORS & OFFICERS OF THE COMPANY .....	25
3	APPORTIONMENT OF COSTS .....	26
4	ADDRESS OF AUTHORITIES.....	27
5	PROJECT GOVERNANCE AND MEMBERSHIP OF THE PROJECT BOARD .....	28

THIS AGREEMENT is made on the                      day of                      2011.  
**BETWEEN**

- (1) **MERSEYSIDE FIRE & RESCUE AUTHORITY of Fire Service Headquarters, Bridle Road, Bootle L30 4YD (“Merseyside”)**
- (2) **CUMBRIA COUNTY COUNCIL of the Courts, Carlisle, Cumbria CA3 8NA (“Cumbria”)**
- (3) **LANCASHIRE COMBINED FIRE AUTHORITY of Fire Service Headquarters, Garstang Road, Fulwood, Preston PR2 3LH (“Lancashire”)**
- (4) **CHESHIRE FIRE AUTHORITY of Fire Service Headquarters, Sadler Road, Winsford, Cheshire CW7 2FQ (“Cheshire”)**
- (5) **GREATER MANCHESTER FIRE & RESCUE AUTHORITY of Fire Service Headquarters, Bolton Road, Swinton, Manchester M27 8US (“Greater Manchester”)**

#### **BACKGROUND**

- (A) The Authorities are in the process of agreeing a collaborative approach toward the provision of a shared emergency control facility for the North West (NW) Fire & Rescue Services.
- (B) The Authorities have agreed in principle to work together in the joint procurement of a mobilising system, the convergence of their current control ways of working, and those elements of project delivery that will require collaboration in order for the project to be delivered successfully to time, cost & quality.
- (C) This agreement will set out the undertakings and agreement for the Authorities to proceed with the first stage of the project; that is to formally decide and agree to enter into a collaborative arrangement for provision of a single shared emergency control facility for each of the Authorities’ party to the agreement.

**Stage 1** This first stage will include the resourcing of a project delivery group, the development of a technical specification, procurement up to the point of contract award and other project development work as dictated by the project plan.

**Stage 2** Once the Authorities have contracted with a supplier for the mobilising system, it is intended to establish a further agreement (Stage 2: the Project Agreement) that will specify arrangements and obligations for the remainder of the project delivery up to the point of FOC.

**Stage 3** The third stage will see the transition of each existing control into the shared emergency control facility and this stage will be covered by a Co-operation Agreement (between all Authorities) and contracts between each Authority and NW Fire Control Ltd.

IT IS AGREED as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement and the Recitals, unless the context otherwise requires, the following terms shall have the meanings given to them below:

**“ACAS”**  
Means Advisory, Conciliation and Arbitration Service

**“Authority”**  
means Merseyside, Cumbria, Lancashire, Greater Manchester or Cheshire and “Authorities” shall mean all or any of them as the context so permits;

**“Bidder”**  
means any person/organisation that submits a bid;

**“Co-operation Agreement”**  
has the meaning given in recital (C);

**“Commencement Date”**  
means the date of this Agreement;

**“Confidential Information”**  
means all know-how and other information whether commercial, financial, technical or otherwise relating to the business, affairs or methods of the Authorities, which is contained in or discernible in any form whatsoever (including without limitation software, data, drawings, films, documents and computer-readable media) whether or not marked or designated as confidential or proprietary or which is disclosed orally or by demonstration and which is described at the time of disclosure as confidential or is clearly so from its content or the context of disclosure;

**“Company”**

means NW Fire Control Limited

**“CFOA”**

means Chief Fire Officers Association

**“Defaulter”**

has the meaning given in **clause 13.2 (Commencement, Duration & Termination)**;

**“DPA”**

means the Data Protection Act 1998;

**“DCLG”**

means Department for Communities and Local Government

**“EU Procurement Regime”**

means the Public Procurement Regulations 2006

**“FOC”**

means Full Operating Capability

**“FTE”**

means Full Time Equivalent

**“HR”**

means Human Resources

**“Key Procurement Functions**

means those actions identified as Key Procurement Functions in the first column of the table set out in **Schedule 1 (Project/Procurement Milestones)**;

**“Lead Members”**

means the Chair, Vice Chair and Party Group Leaders of Authorities

**“Material”**

means all data, text, graphics, images and other materials or documents created, used or supplied by an Authority in connection with this Agreement (unless before the first use or supply, the Authority notifies the others that the data, text supplied by it is not to be covered by this definition);

**“Matter Reserved to Authorities”**

means those actions, matters and/or functions identified as matters reserved to Authorities in the fourth column in the table set out in **Schedule 1 (Project/Procurement Milestones)**;

**“Non-Defaulting Parties”** has the meaning given in **clause 13.2 Termination);**

**“NWFC”** North West Fire Control

**“Personal Data”** means the personal data as defined in the DPA;

**“Regional Control Project”** has the meaning given in Recital (A);

**“Procurement End Date”** means the date that any services agreement or other delivery vehicle is completed pursuant to the Procurement Milestones;

**“Project/Procurement Milestones”** means the project/procurement stages set out in Schedule 1 to be carried out in order to commence the North West FireControl Project and as may be amended from time to time by the Authorities in accordance with the terms of this Agreement;

**“Project”** means the process set out in the Project/Procurement Milestones to be carried out by or on behalf of the Authorities with the intention of delivering a North West Fire & Rescue Control solution, including negotiating and agreeing with preferred bidders, and provision of contract documentation necessary to secure the delivery of a North West Fire control and also to be set out in the Project Agreement and documentation to be completed as described in the Preamble governing Stages 3;

**“PM”** means Project Manager

**“Project Agreement”** means the Project Agreement to be entered into between the Authorities and the Company be entered into at the time that a suitable and agreed supplier is to be contracted with to supply the mobilising system.

**“Project Manager”** means the person identified as such in **Clause 3 (Project Governance)** or any replacement of him;

**“Project Team”** means the team formed pursuant to the provisions of **Clause 3.4 (Project Board)**, for the purpose of assisting to deliver the Project and any addition or replacement of any individual member of the team;

**“Provider”** means any private sector partner, providing a service, facility, equipment or material, to be party to the Project Agreement

**“NWCCD”** means the North West Control Centre Director

**“NW FCC or FCC”** means “NW Fire & Rescue Control Centre”

**“NWPD”** means the North West Project Director

**“Services”** means the services to be provided by the Provider pursuant to and defined by the Project Agreement;

**“Short-listed Bidder”** means a Bidder who is asked to submit a bid

## **1.2 Interpretation**

In this Agreement, except where the context otherwise requires:

1.2.1 each gender includes all genders;

1.2.2 the singular includes the plural and vice versa;

1.2.3 a reference to any clause, sub-clause, paragraph, Schedule, recital or annex is, except where expressly stated to the contrary, a reference to such clause, sub-clause, paragraph, schedule, recital or annex of and to this Agreement;

1.2.4 any reference to this Agreement or to any other document shall include any permitted variation, amendment or supplement to such document;



- 1.2.5 any reference to legislation shall be construed as a reference to any legislation as amended, replaced, consolidated or re-enacted;
- 1.2.6 a reference to a public organisation (other than an Authority) shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation;
- 1.2.7 a reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
- 1.2.8 the schedule, clause, sub-clause and (where provided) paragraph headings and captions in the body of this Agreement do not form part of this Agreement and shall not be taken into account in its construction or interpretation; and
- 1.2.9 words preceding “include”, “includes”, “including” and “included” shall be construed without limitation by the words which follow those words.

## 2. PRINCIPLES AND KEY OBJECTIVES

- 2.1 The Authorities intend this Agreement to be legally binding.
- 2.2 The Authorities agree to work together to carry out the Project/Procurement Milestones in accordance with the terms of this Agreement.
- 2.3 In working together, the Authorities agree that they will conduct the relationship between them in accordance with the following principles:
  - 2.3.1 **Openness and trust**
    - 2.3.1.1 The Authorities undertake to act in accordance with a duty of good faith to each other, be open and trusting in their dealings with each other, make information and analysis available to each other, use such information to support the Project, discuss and develop ideas openly and contribute fully to all aspects of the successful achievement of the Project.
    - 2.3.1.2 While respecting the mutual need for commercial confidentiality, the Authorities undertake to be transparent in their dealings with each other and, without prejudice to the foregoing, the Authorities undertake to respect matters of commercial confidentiality and potential sensitivity.

### 2.3.2 **Commitment and drive**

The Authorities undertake to be committed fully to the Project, will seek to motivate their respective employees involved in or attached to the Project and undertake to address the challenges of the Project with drive, enthusiasm and a determination to succeed.

### 2.3.3 **Skills and creativity**

The Authorities acknowledge and agree that each brings complimentary skills and knowledge which they will apply creatively to achieving their respective objectives, resolution of difficulties and the development of the Project and the personnel working within it.

### 2.3.4 **Effective relationships**

The Authorities undertake to develop and maintain clear roles and responsibilities for each of them and to develop relationships at the appropriate levels within each organisation providing direct and easy access for the others' representatives.

### 2.3.5 **Developing and adaptive**

The Authorities acknowledge and agree that they are engaged in a long term relationship for their mutual benefit through the achievement of the Project. The Project will need to develop and adapt and each Authority will use reasonable endeavours to develop and maintain an effective joint process to ensure that the Project develops appropriately and in line with the principles set out in this Agreement.

### 2.3.6 **Reputation and standing**

The Authorities agree that, in relation to this Agreement and the Project generally, they shall pay the utmost regard to the standing and reputation of each other and shall not do or fail to do anything which may bring the standing or reputation of any of the other Authorities into disrepute or attract adverse publicity to any of the other Authorities.

**3. PROJECT GOVERNANCE (see also Schedule 5)**

The Project Governance will ensure that the needs and expectations of the participating Authorities are safeguarded. The strategic direction and therefore overall responsibility for the Project will be provided by the NW CFO Programme Board, this group will nominate a lead Officer to act as the North West Project Director (NWPD).

The NWPD will hold overall responsibility for the delivery of the Project, however day to day running of the Project will be the responsibility of the North West Control Centre Director (NWCCD) and the North West Project Manager (NWPM).

The NWCCD will oversee those elements of the Project which directly impact on the future operations of the control centre, they include, people, technology, accommodation and finance. The NWPM will take responsibility for the day to day running of project activities which will include managing requirements, managing risks and the provision of regular reports to the NWPD and Programme Board.

A Project Board will be established to be responsible for assuring that the project remains on track to deliver the required outcomes. It is anticipated that the membership of the Project Board will comprise the lead Principal Officer from each FRS with responsibility for the control centre project along with other nominated individuals to act as specialist advisors in specific areas of work, namely, Legal, ICT, Finance, Procurement, Communications and HR.

The Project Team will provide for the day to day running of project activities and be responsible for the transition to a shared control facility within project timescales and for coordinating the activities of all parties involved.

**Project Assurance:** The North West Project Board will look to conduct project assurance in line with OGC standards and methodologies. The North West Project Board may also utilise external consultancy services to provide a robust review of all aspects of the Project.

### **3.2 Appointment of the Company (NW Fire Control Ltd)**

As endorsed by the Authorities, it is intended that the existing Company (NW Fire Control Ltd) will be the contracted provider of the control service function once the Project is completed and the Fire Control Centre is fully operational. Additionally the Company Directors will continue with their core business of providing their duties as outlined in the Company Articles of Association and other relevant responsibilities. The NWCCD will continue to act as the Company Chief Executive and will be responsible for the successful delivery of NW Fire Control Ltd as the functioning operational organisation that will operate the NW FCC

3.2.1 The Company shall meet as and when required in accordance with the timetable for the Project and, in any event, at appropriate times and on reasonable notice.

3.2.2 Each Authority shall provide all information reasonably required upon request by the Company.

### **3.3 Appointment of the Project Director**

The Authorities have appointed a Project Director to Chair the Project Board. The Project Director will report directly to the Chief Fire Officers. The Project Director shall not have the power to approve a Company Board matter or a matter reserved to Authorities.

### **3.4 Appointment of the Project Board**

The Authorities have formed a Project Board for the purposes of managing delivery of the Project plan. This team will consist of those Officers referred to in Schedule 5

## **4. DECISION MAKING**

The Authorities have identified the following three categories of decisions and other actions to be taken and carried out during the initial Project/Procurement Milestones together with the means by which they will be taken:

4.1 a "Key Functions and activities" being those matters which the Project Board shall have authority to carry out on behalf of the Authorities as shown in Schedule 1;

4.2 a "Company Board matter", being a matter which it is expected that the representatives of each of the Authorities appointed pursuant to clause 3.2 (**Appointment of the Company**) will be able to make a decision upon and have the power to bind the Authority it represents in doing so: and

- 4.3 a "Matter Reserved To Authority", being a matter which shall be referred to an Authority and, for the avoidance of doubt, not delegated to a member of the Project Board.

## 5. EVALUATION

The Authorities agree that nominated representatives from each Authority and from the Project Board will form part of an evaluation team for the Project so that the Authorities agree on the selection of specific Providers

## 6. COMMITMENT OF THE AUTHORITIES AND CONTRIBUTIONS

- 6.1 The Authorities agree and undertake to commit to the Project in accordance with the terms of this Agreement and not to commission and/or undertake any procurement and/or project that seeks or would procure the delivery of all or part of the North West Control Project outside the terms of this Agreement unless and until it shall have withdrawn from the Project in accordance with **Clause 9 (Withdrawal)**

- 6.2 The Project/Procurement Milestones shall be financed and resourced by the contributions from the Authorities as set out in **Schedule 3 (Apportionment of Costs)**

- 6.3 All parties acknowledge that the figures for Apportionment of Costs given in Schedule 3 are dependent on the continuing availability of funding for each Authority and the respective apportionment percentages may be subject to amendment by mutual consent.

## 7. SITE

The Authorities agree that use of the existing site at Lingley Mere in Warrington continues to offer the most resilient, highly specified, environmentally sound building for the provision of a shared Fire Control facility and therefore continue to assume this location is utilised for Project Delivery and beyond. The Authorities reserve the right to review this Agreement in light of any changes to the DCLG provision of funding and resources as indicated in the Heads of Terms Agreement between DCLG & NW Fire & Rescue Authorities / Cumbria County Council and the subsequent assumptions provided in the Business Case.

## 8. DUTIES OF THE AUTHORITIES

- 8.1 Greater Manchester, Merseyside, Lancashire and Cheshire Fire and Rescue Authorities and Cumbria County Council shall each, during the currency of this Agreement, act diligently and in good faith in all their dealings with the Project Board

## **9. WITHDRAWAL**

- 9.1 Where an Authority indicates that it wishes to withdraw from the Project in accordance with the terms of this Agreement, then the Authority who shall have indicated its wish to withdraw shall comply with its obligation to contribute to the Project up to the date of its withdrawal.
- 9.2 On production of the final business case the Authorities reserve the right to withdraw from the project if projected savings, as detailed in the outline business case, fall outwith tolerances of 10% more or less than those detailed in the outline business plan. In such circumstances Authorities shall not incur any additional cost or financial penalties.

## **10. CONCLUSION OF THE JOINT WORKING AGREEMENT**

- 10.1 At the point in which a Provider has been contracted to supply a mobilising system, the Joint Working Agreement will conclude. Immediately before the Provider has been contracted, the Project Agreement will be entered into.
- 10.2 The **Project Agreement** shall include (inter alia):
- 10.2.1 Project milestones that will need to be achieved in order for FOC to be achieved to time, cost and quality.
- 10.2.2 greater detail around items such as intellectual property and management of data.

## **11. DISPUTE RESOLUTION**

- 11.1 Any disputes and/or disagreements arising under or in connection with this Agreement, and that have already been referred to the Project Board, and the CFO Programme Board without resolution will be referred in order of consultation to lead Members of Authorities and if still unresolved, to the mediator.
- 11.2 If a dispute and/or disagreement arises in relation to any aspect of this Agreement, then, save in relation to disputes or disagreements relating to a Matter Reserved to Authorities, the lead Members referred to in Clause 11.1 above shall meet within 10 Business Days of notification of the occurrence of such dispute and attempt to resolve the disputed matter in good faith.
- 11.3 In relation to a dispute or disagreement relating to a Matter Reserved to Authorities, or if the Company fails to resolve a dispute or disagreement within 5 Business Days of meeting pursuant to clause 11.2, or fails to meet in accordance with the timescales set out in clause 11.2, then any Authority as appropriate may refer the matter for resolution by a neutral advisor or mediator.

- 11.4 The procedure for mediation and provisions relating to mediation are as follows:-
- 11.4.1 A mediator (“the Mediator”) shall be chosen by agreement between the parties. If they are unable to agree upon the identity of the Mediator within 10 days of the request by one party to the other, or if the Mediator agreed upon is unable or unwilling to act, either party shall within 10 days from the proposal to appoint a Mediator or within receipt of notification that the Mediator is unable or unwilling to act, shall apply to the Association of Northern Mediators (“ANM”) or ACAS
- 11.4.2 The parties shall, within 14 days of the appointment of the Mediator, meet him in order to agree a programme for exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from the ANM/ACAS to provide guidance on the procedure
- 11.4.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings
- 11.4.4 If the parties reach agreement on the resolution of the dispute the agreement shall be confirmed in writing and shall be binding on the parties once it is signed by authorised officers of the respective Authorities
- 11.4.5 Failing agreement, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Agreement without the prior written consent of all parties
- 11.4.6 If the parties fail to reach agreement in the structured negotiations within 30 days of the Mediator being appointed, or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the Courts
- 11.4.7 The parties agree that liability for payment of the Mediator’s fees shall be split equally between the parties and all other costs arising out of the mediation shall be payable by the party incurring such cost

## 12. INDEMNITY

- 12.1 The Authorities shall, up to the maximum of their respectively agreed costs apportionment percentages identified in **Schedule 3**, jointly indemnify any Authority hereto carrying out work or an activity in connection with the Project and shall subject to the maximum percentages aforesaid indemnify the employees of such Authority against any expenses, liability, loss, claim or proceedings whatsoever whether arising from the neglect, act, error or omission of the Authority or its employees in the course of their employment.
- 12.2 The indemnity set out in this clause – shall cover any neglect, act, error or omission occasioned by the Authority and any employee of the Authority provided that the employer acted in good faith and in accordance with this Agreement.
- 12.3. The indemnity set out in this clause – shall be without prejudice to the right of any Authority to take disciplinary action against an employee in respect of any neglect, error or omission.
- 12.4. The indemnity set out in this clause shall apply:-
- 13.4.1 retrospectively to any neglect, act, error or omission which may have occurred since the commencement of this Agreement.
- 13.4.2. after the retirement, dismissal or resignation of an employee as well as during his employment with the relevant Authority.
- ### 13. COMMENCEMENT, DURATION AND TERMINATION
- 13.1 This Agreement shall continue in full force and effect from the Commencement Date until the earliest of the following:
- 13.1.1 the Authorities agree in writing to its termination;
- 13.1.2 when one or more Authorities withdraw under **clause 9 (Withdrawal)** and the Business Case demonstrates, to the remaining Authorities, that there is no longer sufficient financial benefit for them to continue with the Project; or
- 13.1.3 completion of the Project Agreement.



13.2 Without prejudice to any other rights or remedies of the Authorities, this Agreement may be terminated in relation to any Authority (“Defaulter”) by the other Authorities (“Non-Defaulting Parties”) acting unanimously in giving written notice to the Defaulter effective on receipt where the Defaulter breaches any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within five (5) Working Days of being notified of each breach in writing by the Non-Defaulting Parties and being required to remedy the same.

#### **14. CONSEQUENCES OF TERMINATION**

14.1 If the Agreement is terminated in accordance with **clause 13 (Termination)**, save for the obligations set out in **clause 6 (Commitment of the Authorities and Contributions)** and **clause 15 (Confidentiality & Announcements)**, the Authorities shall be released from their respective obligations described in this Agreement.

14.2 The Authorities acknowledge and agree that:

14.2.1. the affordability of the NW Control Project is based upon the business case continuing to demonstrate sufficient financial benefits for each of the authorities and that each of the Authorities continues to contribute financially to the Project and

14.2.2 accordingly, save for the circumstances described in **clause 13.1 (Commencement, Duration and Termination)** or **clause 9 (Withdrawal)**, in the event that this Agreement is terminated pursuant to clause 13.2 such Defaulter shall be liable to the Non Defaulting Authorities for their reasonable and properly incurred abortive costs (including but not necessarily limited to the costs of legal, financial and technical advice

14.3 Notwithstanding the provisions of **clause 14 (Consequences of Termination)** the Authorities shall not agree or enter into discussions with a view to agreeing with any bidder (including any bidder appointed as preferred or reserve bidder for the Project) that any of them is or will become liable to that bidder at the time in question or in the future for any abortive or similar costs or damages of that bidder or its advisers.

#### **15. CONFIDENTIALITY AND ANNOUNCEMENTS**

15.1 Each Authority (“Covenanter”) shall, both during the currency of this Agreement and at all times following its termination or expiry, keep private and confidential and shall not use or disclose (whether for its own benefit or that of any third party) any confidential information about the business of and/or belonging to any other Authority which has come to its attention as a result of or in connection with this Agreement, in particular (but without prejudice to the generality of the foregoing) confidential information relating to the Co-operation Agreement and/or the Project Agreement.

- 15.2 The obligation set out in **clause 15.1 (Confidentiality and Announcements)** shall not relate to information which:
- 15.2.1 comes into the public domain or is subsequently disclosed to the public (other than through default on the part of the Covenanter or any other person to whom the Covenanter is permitted to disclose such information under the Agreement); or
  - 15.2.2 is required to be disclosed by law; or
  - 15.2.3 was already in the possession of the Covenanter (without restrictions as to its use) on the date of receipt; or
  - 15.2.4 is required or recommended by the rules of any governmental or regulatory authority including any guidance from time to time as to openness and disclosure of information by public bodies; or
  - 15.2.5 is necessary to be disclosed to provide relevant information to any insurer or insurance broker in connection with obtaining any insurance required by this Agreement.
- 15.3 Where disclosure is permitted under **clause 15.2.3 or 15.2.4 (Confidentiality and Announcements)**, the recipient of the information shall, where the law allows, be subject to a similar obligation of confidentiality as that contained in this **clause 15 (Confidentiality and Announcements)** and the disclosing Authority shall make this known to the recipient of the information.
- 15.4 No Authority shall make any public statement or issue any press release or publish any other public document relating, connected with or arising out of this Agreement excluding any disclosure required by legal or regulatory requirements) without obtaining the prior approval of each of the other Authorities as to the contents thereof and the manner of its presentation and publication.
- 15.5 Where information may be required to be disclosed pursuant to the Freedom of Information Act 2000 ("FOIA") the following shall apply
- 15.5.1 All parties shall comply with the FOIA and shall take account of the Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA made pursuant to Section 45 of the Act
  - 15.5.2 Where any Party receives a request for information in writing and that information is held by the other on behalf of the Party in receipt of the request the Party holding the information on behalf of the other shall promptly provide the Party in receipt of the request with such information as is necessary to enable it to comply or consider the request

15.5.3 For the purposes of sub-clause 15.5.2 “in writing” shall also include any request for information where the text of the request is (a) transmitted by electronic means (b) is received in legible form, and (c) is capable of being used for subsequent reference

15.5.4 Unless it is clear that no exemption applies under the FOIA each Party shall notify the other within 14 working days of any requirement arising as a result of the FOIA whereby it may be compelled to disclose information provided to it by the other Party and shall consult with it as to whether the Party concerned should confirm the existence of the information and moreover whether the information should be disclosed. Where appropriate the Parties should seek to agree the status of any exemption relied upon, whether absolute or qualified

15.5.5 Sub-clause 15.5.4 shall not apply where the Party which has been provided information by the other does not intend to disclose such information.

## **16. NO AGENCY OR PARTNERSHIP**

16.1 Save as expressly provided otherwise in this Agreement or where a statutory provision otherwise requires, the Authorities shall not in any way whatsoever:

16.1.1 be, act or hold themselves out as an agent of the other; nor

16.1.2 make any representations or give any warranties to third parties on behalf or in respect of the other; nor

16.1.3 bind or hold themselves out as having authority or power to bind the other.

16.2 Nothing in this Agreement shall create, or be deemed to create, a partnership between the Authorities.

## **17. CONTRACTORS (RIGHTS OF THIRD PARTIES) ACT 1999**

Nothing in this Agreement shall confer on any third party any benefit or the right to enforce any term of this Agreement.

## **18. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement and understanding between the Authorities in relation to its subject matter and supersedes all prior representations, arrangements, understandings, agreements, statements or warranties (whether written or oral) relating to the same.

**19. INCONSISTENCY**

This Agreement and its Schedules shall be read and taken together. In the event of any inconsistency or conflict between these terms and conditions in this Agreement and the contents of any of the Schedules these terms and conditions shall prevail.

**20. SEVERANCE**

In the event of any provision of this Agreement being or becoming legally ineffective or unenforceable the remaining provisions of this Agreement shall not be invalidated.

**21. WAIVER**

Failure by any Authority to enforce any one or more provisions of this Agreement shall not constitute or be construed as a waiver nor effect the validity of this Agreement

**22. AMENDMENTS**

No amendment to this Agreement shall be binding unless it is in writing and signed by the duly authorised representatives of each of the Authorities and expressed to be for the purpose of such amendment.

**23. LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with the Laws of England and the Authorities irrevocably submit to the exclusive jurisdiction of the English Courts.

**24. NOTICES**

24.1 Any notice required to be given by any Authority pursuant to or in connection with this Agreement shall not be effective unless given in writing and sent by first class post or delivered by hand or facsimile transmission to the address of the Authority set out at schedule 4 or such alternative address as may be notified in accordance with **clause 24 (Notices)**.

24.2 A notice served in accordance with **clause 24.1 (Notices)** shall be deemed to have been duly served when received except that:

24.2.1 subject to **clause 24.2.2 (Notices)** if it is received between 4 pm on a Working Day and 9 am on the immediately following Working Day it shall be deemed to have been served at 9 am on the second of such Working Days;

24.2.2 if given or made by facsimile transmission, it shall be deemed to have been received once an uninterrupted communication report has been generated, provided the Authority to whom the notice is to be transmitted has not notified the Authority giving or making the notice that the facsimile is unintelligible or incomplete.

24.3 Each Authority shall notify the other in writing within five (5) Working Days of any change in its address for service.

## **25. COUNTERPARTS**

This Agreement may be executed in any number of counterparts each of which so executed will be an original but together will constitute one and the same instrument.

## **26. COSTS**

The Authorities shall be responsible for paying their own respective costs and expenses in relation to the preparation, execution and implementation of this Agreement, except as expressly provided in this Agreement.

**IN WITNESS WHEREOF** this Deed has been executed on the day and year first above written.

The Common Seal of the  
**Cumbria County Council**  
is hereunto affixed in the presence of

.....

The Common Seal of the  
**Lancashire Combined Fire Authority**  
is hereunto affixed in the presence of

.....

The Common Seal of the  
**Merseyside Fire & Rescue Authority**  
is hereunto affixed in the presence of

.....

The Common Seal of the  
**Cheshire Fire Authority**  
is hereunto affixed in the presence of

.....

The Common Seal of the  
**Greater Manchester Fire & Rescue Authority**  
is hereunto affixed in the presence of

.....

## SCHEDULE 1

### PROJECT/PROCUREMENT MILESTONES

AUTHORISED BY:				
MILESTONE	PROJECT BOARD	CFO PROGRAMME BOARD	NWFC BOARD MATTER	MATTER RESERVED TO AUTHORITIES
<b>Governance</b>				
1. Approval to appoint NWFC to provide Project oversight.				Yes
2. Appoint Project Director		Yes		
3. Appoint Project Manager		Yes		
4. Form Project Board		Yes		
<b>Finance</b>				
5. Draft final Business Case with DCLG subsidy confirmed	Yes			
6. Agreement of the outline Business Case				Yes
7. Agreement of the cost apportionment method		Yes		
<b>Project</b>				
8. Agreement of Project Scope		Yes		
9. Prepare Stage 1 Plan	Yes			
10. Agree final Project Plan	Yes			
<b>Communications</b>				
11. Prepare comms strategy	Yes			
<b>Procurement</b>				
12. Agree route to market	Yes			
13. Invite expressions of interest	Yes			
14. Issue PQQ's	Yes			
15. Evaluate PQQs	Yes			
16. Agree shortlist of bidders	Yes			
17. Commence tender process and issue tender documentation	Yes			
18. Evaluate bids received	Yes			

AUTHORISED BY:				
MILESTONE	PROJECT BOARD	CFO PROGRAMME BOARD	NW/FC BOARD MATTER	MATTER RESERVED TO AUTHORITIES
19. Selection of preferred bidders	Yes (in consultation with CFO Programme Board)			
20. Approval to award contract.				Yes
21. Award contract			Yes (in consultation with CFO Programme Board)	
22. Clarify, negotiate & confirm commitment with preferred Bidder	Yes			
23. Preparation of Final Business Case	Yes			
24. Review of Final Business Case			Yes	
25. Agreement to Final Business Case, Funding and Financial Close				Yes
26. Agreement and execution of Project Agreement (Stage 2) and Co-operation Agreement (Stage 3)				Yes
27. Approval of additional expenditure for the Project.				Yes
28. Agreement to award contract				Yes



## SCHEDULE 2

### Directors & Officers of the Company \*

Name	Position	FRA
Gary Strong	Director	Cumbria
William Bleasdale	Director	Cumbria
David O'Toole	Director	Lancashire
John Shedwick	Director	Lancashire
Antony Newman	Director	Merseyside
David Hanratty	Director	Merseyside
Henry Cooper	Director	Greater Manchester
Fred Walker	Director (Chair)	Greater Manchester
John Joyce	Director	Cheshire
Eleanor Johnson	Director	Cheshire
Dominic Whelan	Chief Executive Officer	North West Fire Control Ltd
Fiona Hodson	Company Secretary	North West Fire Control Ltd

- *Correct at time of publication, but subject to short notice change.*

## SCHEDULE 3

### APPORTIONMENT OF COSTS

<b>GREATER MANCHESTER</b>	<b>38.64%</b>
<b>MERSEYSIDE</b>	<b>21.76%</b>
<b>CUMBRIA</b>	<b>6.08%</b>
<b>LANCASHIRE</b>	<b>19.91%</b>
<b>CHESHIRE</b>	<b>13.61%</b>

**Note:**

The apportionment is based upon a model developed by the Finance Directors in March 2011, approved by CFOs and recommended to lead members at the July 2011 project briefing. It provides an apportionment percentage that will be used to split the future costs of NW Fire Control Ltd (as the Fire Control provider) and a percentage for the allocation of any surplus / profit in the future.

It is based on aligning the projected future costs of the new organisation as per the business case headings of **Employees, Facilities, RCC Operating Costs, and Technical Services**. An apportionment was then allotted against each of these four separate headings based upon the most relevant and acceptable method for that particular area. **Employee** costs were based on each FRS's existing percentage of calls (and therefore directly linked to staff numbers); **Facilities** costs were based upon the existing costs of each FRS estate and then worked out as a percentage across the 5 FRS; **RCC Costs** and **Technical Costs** were split into equal shares.

This apportionment method then allowed a single cost for each FRS to be derived for Year 1 and beyond, and this in turn allowed the production of single cost apportionment percentage for each FRA. Very minor adjustments were then made, in consultation with CFOs, but retaining the underlying logic. It should be noted that the percentages are not rounded up or down as they are linked to the costs and savings shown on the financial spreadsheets.

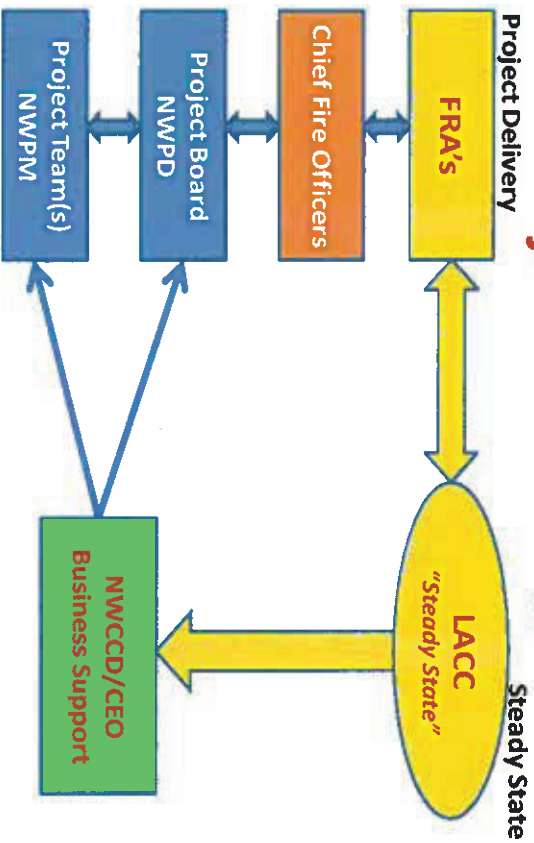
## SCHEDULE 4

### ADDRESS OF AUTHORITIES

RECIPIENT'S NAME	ADDRESS	FAX NO.
The Clerk to the Authority	Cumbria County Council The Courts Carlisle Cumbria CA3 8NA	01228 607376
The Clerk to the Authority	Lancashire Combined Fire Authority Fire Service Headquarters Garstang Road Fulwood Preston PR2 3LH	01772 866964
The Clerk to the Authority	Merseyside Fire and Rescue Authority Fire Service Headquarters Bridle Road Bootle Liverpool L30 4YD	0151 296 4333
The Clerk to the Authority	Greater Manchester Fire and Rescue Authority Fire Service Headquarters Bolton Road Swinton Manchester M27 8US	0161 736 5866
The Head of Legal and Democratic Services	Cheshire Fire Authority Fire Service Headquarters Sadler Road Winsford Cheshire CW7 2FQ	01606 868700

SCHEDULE 5

# Project Governance



## Project Board Members

Name	Position	FRS
Paul Hancock	Project Director	Cheshire
Ian Cartwright	Lead Officer	Cumbria
Richard Ost	Lead Officer	Cheshire
Chris Kenny	Lead Officer	Lancashire
Paul Argyle	Lead Officer	GMFRS
Kieran Timmins	Lead Officer	Merseyside
Ged Murphy	Finance Lead	GMFRS
Janet Henshaw	Legal Lead	Merseyside
Bob Warren	HR Lead	Lancashire
Damian Parkinson	ICT Lead	GMFRS
Sharon Matthews	Procurement Lead	Merseyside
Kathy Stacey	Communications Lead	Lancashire
Brian Mitchellhill	Project Manager	Cumbria
Dominic Whelan	Executive Director	NWFC Ltd
Adele Forster	Project Support	NWFC Ltd
Fiona Hodson	HR Advisor	NWFC Ltd

- *Correct at time of publication, but subject to short notice change.*

Version / Date	Received	Comments
<b>Draft Versions</b>		
0.1 / 06 Feb 2011	D.Whelan;F.Hodson; B.Mitchelhill;A.Forster	For initial comments and feedback
0.2 / 21 Feb 2011	D.Whelan;F.Hodson; B.Mitchelhill;A.Forster	Initial comments incorporated or further feedback required.
0.3 / 16 Mar 2011	D.Whelan;F.Hodson; B.Mitchelhill;A.Forster S.Mathews	Post JWA meeting / All comments from that meeting incorporated for next proof. Procurement reviewed by procurement specialist.
0.4 / 18 Mar 2011	C.Schofield; S.Mathews	Sent for external comment to MFRS Management team with specific experience in these areas.
0.5 / 22 Mar 2011	D.Whelan;F.Hodson; B.Mitchelhill;A.Forster	Various changes based on C.Schofields recommended amends to v0.4
0.6 / 30 Mar 2011	P Hancock, B.Mitchelhill	Inserted Project Governance amend to V0.6
0.7/ July 2011	J Henshaw/ B. Mitchelhill	Various changes re comments from Cheshire FA
0.8/ August 2011	J.Henshaw/ B. Mitchelhill	Final amendments prior to Project Board 23 Aug 11
0.9/ August 2011	J Henshaw; D Whelan; B Mitchelhill	Inclusion of cost apportionment; minor word and formatting corrections; amendment to Schedule 1 (21) – Award of Contract; amendment to Schedule 2 (inclusion of Company Secretary)
<b>Issued Versions</b>		
<b>1.0 / 26 Aug 2011</b>	J Henshaw	Formal Issue for use.

Any further comments, amendments are to be sent via Adele Forster (NW Project Support) for centralised document control purposes. Contact: [forstera@manchestersfire.gov.uk](mailto:forstera@manchestersfire.gov.uk)

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