

THIS AGREEMENT is made on October 2013

BETWEEN

- (1) Cambridgeshire and Peterborough Fire Authority of Hinchingbrooke Cottage, Brampton Road , Huntingdon, PE29 2NA ("CPFA") and**

- (2) Bedfordshire Fire and Rescue Authority of Southfields Road, Kempston, Bedford, MK42 7NR ("BFRA")**

BACKGROUND

- (A) CPFA and BFRA are both combined fire and rescue authorities for the purposes of the Fire and Rescue Services Act 2004**

- (B) CPFA and BFRA have agreed to harmonise the ICT infrastructure of both organisations and create a shared ICT team to provide all ICT support to both Parties to provide resilience and a more economical, efficient and effective service.**

- (C) They have entered into this Agreement in reliance on the powers given to them under the provisions of sections 5, 5A and 12 of the Fire and Rescue Services Act 2004 and section 10 of the Local Government Act 1972**

IT IS AGREED AS FOLLOWS

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions shall have the following meanings unless otherwise expressly stated:

Agreement	means this agreement and all Schedules
Assets	all and any assets used in the delivery of the Shared Services including all items of furniture, information technology (including software), and all other equipment supplied by the Parties for use in the delivery of the Shared Services
Asset Register	a register of all the Assets used by the Parties in the delivery of the Shared Services
Background IPR	means all intellectual property rights in any material or in any work (in whatever format) which exists prior to the Commencement Date
BFRS	means the Bedfordshire Fire and Rescue Service which is provided and maintained by BLFA
Budget	means the estimated budget for the provision of the Shared Services in each Financial Year, as described in Schedule 3
CFRS	means the Cambridgeshire Fire and Rescue Service which is provided and maintained by CPF
Commencement Date	means 1 July 2013
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 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" but which is not Personal Data, or information to which the FOIA would apply

DPA	means the Data Protection Act 1998 Exempt Information means any information or class of information relating to this Agreement which may fall within an exemption to disclosure under FOIA Legislation
Expert	means a person appointed in accordance with Clause 17
Expert Determination	means the process set out at Clause 17.4 to 17.11
Financial Year	means the period from the 1 April of one year to the 31 March of the following year during the Term of this Agreement
FOIA Legislation	means the Freedom of Information Act 2000 and subordinate legislation made under this and the Environmental Information Regulations 2004
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 ICT support to be provided under this Agreement after the Commencement date
ICT Shared Services Catalogue	means the catalogue attached to this Agreement as Schedule 1 which contains the ICT services that are to be provided to the Parties under the terms of this Agreement
ICT Shared Services Governance Board	means the board established in accordance with the provisions of clause 10 and Schedule 4
Information Request	means a request for information under FOIA Legislation
Intellectual Property Rights	means all rights in patents, trade marks, service marks, design rights(whether registrable or otherwise), applications for any of the foregoing, copyright (including rights in software), database rights, knowhow, trade secrets, confidential business information, trade or business names and any other similar or analogous rights to any of the above, whether arising or granted under the Laws of England or of any other jurisdiction in the world
Parties	means Cambridgeshire and Peterborough Fire Authority and Bedfordshire Fire and Rescue Authority

Relevant Posts	means those posts identified in Schedule 2 to this Agreement
Relevant Staff	means staff employed in Relevant Posts
Shared Services	means the services set out in the ICT Shared Services Catalogue
Term	means the term of this Agreement calculated in accordance with Clause 2.1 and as extended in accordance with Clause 2.2, if applicable

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

1.4 Headings are for convenience only and are not to be taken into consideration in 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 the paragraph.

1.6 The Schedules and Appendices shall be deemed to form and be read and construed as part of this Agreement.

1.7 Words preceding "include", "includes", "including" and "included" are to be construed without limitation by the words which follow these words unless inconsistent with the context, and the rule of interpretation known as eiusdem generis, shall not apply.

2 TERM AND EXTENSION

2.1 This Agreement shall take effect on the Commencement date and shall continue for five years unless:

2.1.1 terminated by either Party giving not less than 12 months written notice to the other Party; or

2.1.2 terminated otherwise in accordance with the provisions of this Agreement.

- 2.2 The Parties may, by agreement, extend the Term for a period or periods of up to 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 PROVISION OF THE SHARED SERVICES

- 3.1 From the Commencement Date, CPFA and BFRA will merge their existing ICT teams into the new structure which is set out in Schedule 2 to this Agreement.
- 3.2 The ICT Team set up under the new structure shall provide the services set out in the ICT Shared Services Catalogue to CFRS and BFRS from the Commencement date.
- 3.3 The Shared Services shall be provided in accordance with the details, time scales and performance indicators set out in the ICT Shared Services Catalogue.

4 OFFICE ACCOMMODATION FOR SHARED SERVICES

- 4.1 CPFA and BFRA shall provide suitable working accommodation for each of the Relevant Staff employed by them in the structure set out in Schedule 2
- 4.2 It is intended that Relevant Staff will remain in their existing locations, where feasible, but re-location may take place where, in the opinion of the ICT Shared Services Governing Board, this will enhance the efficiency of the Shared Services. Any relocation of staff shall be undertaken in accordance with the employing Party's procedures in that regard.

5 ASSETS

- 5.1 Within six months from the Commencement date the Parties will draw up an inventory of the Assets they respectively own (the "Asset Register"). The Asset Register will be kept and regularly updated by the ICT Services Delivery Manager (whose post is shown on the structure at Schedule 2).

6 COSTS AND LIABILITIES IN RESPECT OF THE SHARED SERVICES

6.1 All costs, claims, expenses, actions, demands, losses and liabilities incurred in the provision of the Shared Services shall be shared by the Parties on the terms set out in the financial arrangements attached at Schedule 3.

6.2 Each Party shall indemnify the other Party against and/or contribute to and pay a share of all or any liabilities claims costs and/or expenses of or incurred by that Party arising out of or in connection with or in the course of or as a result of it being a Party to and fulfilling its obligations under this Agreement, including liabilities arising in relation to staff whether directly employed or seconded as a result of this Agreement, with the intent that the Party being indemnified and the other Party shall be jointly liable for all such liability to claims costs and/or expenses in accordance with the financial arrangements set out in Schedule 3 or as otherwise agreed.

PROVIDED THAT such indemnity on the part of the Parties shall not extend to liabilities or claims arising or costs and/or expenses incurred by reason of or in consequence of any of the following on the part of the Party seeking to be indemnified that is to say breach by the Party of its obligations under this Agreement; gross negligence; persistent breach of law or duty (that is to say persisted in after the same shall have been brought to the attention of the relevant Party); any act or omission known or that should have been known to the relevant Party to be contrary to proper local government practice or local government law or substantial or persistent failure (after reasonable notice) to redress performance of the duties of the relevant Party which shall not comply with the requirements or the standards of or set by this Agreement.

6.3 For the avoidance of doubt, such indemnity shall include matters relating to the employment of staff, losses, costs, expenses or liabilities arising from contracts with third parties and in relation to assets, by way of illustration.

6.4 This clause 6 shall survive the expiry or determination of this Agreement.

7 INSURANCE

7.1 Each Party shall ensure that:

7.1.1 it maintains throughout the duration of this Agreement (or procures the taking out and maintenance of) adequate insurance to the levels set out in clause 7.2 and any other such insurances which may be required by law;

- 7.1.2 the insurance obtained is effective no later than the date on which the relevant risk commences;
- 7.1.3 it is responsible for meeting and promptly pays all costs of all insurance premia for the insurances mentioned in clause 7.2; and
- 7.1.4 upon written request it provides to the other Party making the request:
 - 7.1.4.1 copies of all insurance policies required under this clause;
 - 7.1.4.2 evidence that all of the premia payable under such insurance policies have been paid in full; and
 - 7.1.4.3 evidence that the insurances remain in full force and effect.

7.2 Each Party shall ensure that at all times an adequate level of insurance is maintained by it in respect of the provision of the Shared Services and in particular that public liability insurance of no less than £25,000,000 (twenty five million pounds) is taken out and maintained from the Commencement date and throughout the duration of this Agreement.

7.3 Where either Party allows its premises and vehicles to be used to allow Relevant Staff to work on matters relating to this Agreement that Party shall ensure that adequate insurance cover is effected and maintained to cover employee liability (including vicarious liability for Relevant Staff employed by the other Party), public liability and any other insurance requirements which may accord with good practice.

8 STAFFING

8.1 As from the commencement date the Relevant Staff shall be deployed in accordance with the organisational structure shown in Schedule 2 to this Agreement. The Parties shall agree which of the Relevant Staff they will each employ on their own terms and conditions of service.

8.2 When a vacancy arises in a Relevant Post the Parties shall agree which of them will fill the Relevant Post and the recruitment process that will be adopted. Any newly appointed Relevant Staff member shall be employed by the Party which employed the former Relevant Staff member, unless otherwise agreed between the Parties.

8.3 Each Party shall ensure that all Relevant Staff are provided with appropriate authorisation to perform the Shared Services.

8.4 The Parties each hereby agree to place their Relevant Staff at the disposal of the other for the purpose of the efficient and effective provision of the Shared Services to the Parties.

9 FINANCE

9.1 The financial arrangements between the Parties are set out in Schedule 3 attached to this Agreement.

9.2 Subject to the provisions of Schedule 3, It is expected that each Party will manage its own respective ICT budget .

10 ICT SHARED SERVICES GOVERNANCE BOARD

10.1 The Parties shall establish an ICT Shared Services Governance Board in accordance with the provisions of Schedule 4.

10.2 The ICT Shared Services Governance Board shall be made up of the representatives appointed by both Parties in accordance with Schedule 4 and it shall be entitled to establish its own procedures.

10.3 The Parties shall cooperate and provide such information, reports and data as reasonably required by the ICT Shared Services Governance Board to allow it to perform its roles.

11 INTELLECTUAL PROPERTY RIGHTS

11.1 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 fulfil its obligations under this Agreement.

11.2 Foreground IPR created by or on behalf of the Parties during the provision of the Shared Services shall vest jointly in the Parties.

12 CONFIDENTIALITY

12.1 Both Parties and their employees and agents shall at all times keep confidential and secret and will not disclose to any other person, other than a person so authorised by the other Party, any Confidential Information.

12.2 The provisions of this Clause 12 shall not apply to any Confidential Information which:

- 12.2.1 is in the public domain other than by breach of this Agreement or other act or omission of the Recipient;
or
- 12.2.2 is obtained by a third party who is lawfully authorised to disclose such information; or
- 12.2.3 is required to be disclosed to the professional advisers, including auditors, lawyers, independent consultants, advisers, insurers and bankers of each Party provided that the Receiving Party ensures that the person receiving the Confidential Information is made aware and agrees to be bound by the terms of this clause 12.

12.3 Nothing in this Clause 12 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 Law.

13 FREEDOM OF INFORMATION

13.1 The Parties recognise that information relating to this Agreement may be the subject of an Information Request.

13.2 The Parties shall assist each other in complying with their obligations under FOIA Legislation in gathering information to respond to an Information Request.

13.3 The Parties shall be entitled to disclose any information relating to this Agreement and the Shared Services in response to an Information request, except where any Information request is in whole or in part a request for Exempt Information .

13.4 The Party which receives the Information request shall circulate it to, and discuss it with, the other Party.

13.5 The Party which receives the Information request shall consider any representations raised by the other Party when deciding whether to disclose Exempt Information, and it shall not disclose any Exempt Information beyond the disclosure required by FOIA Legislation without the consent of the Party to which it relates.

14 DATAPROTECTION

14.1 The Parties shall at all times comply with the DPA and shall give reasonable assistance to each other where

appropriate or necessary to comply with their obligations under the DPA.

14.2 The Parties shall only undertake processing of personal data reasonably required in connection with the operation of this Agreement and in accordance with this clause and any relevant legal requirements.

14.3 The Parties shall not disclose personal data to any third parties other than:

14.3.1 in response to a data subject access request;

14.3.2 to employees and contractors to whom such disclosure is necessary in order to comply with their obligations under this Agreement. or

14.3.3 to the extent required to comply with a legal obligation.

15 THIRD PARTY RIGHTS

The Parties do not intend that any third party which may benefit from this Agreement shall have any rights of enforcement under the terms of the Contracts (Rights of Third Parties) Act 1999.

16 TERMINATION OF THIS AGREEMENT

16.1 The Parties agree that this Agreement may be terminated by either party giving to the other Party written notice of termination in accordance with the provisions of Clause 2.1.1.

16.2 In the event of termination of this Agreement:

16.2.1 either Party shall supply to the other Party, when requested, any information which the other Party requires for the continuing provision by that other party of any of the Shared Services; and

16.2.2 each of the Parties shall undertake to pay such reasonable payment or payments which fairly reflect the obligations of that Party pursuant to this Agreement on the basis set out in Clause 9 and Schedule 3; and

16.2.3 all Assets used for the purposes of the provision of the Shared Services shall remain in the ownership of the Party shown to own such Assets in the Asset Register; and

16.2.4 the Parties will agree the basis on which any Assets, which are jointly owned by the Parties, shall be disposed of.

16.3 It shall be the duty of each Party to try to minimise any losses arising from the termination of this Agreement.

17 DISPUTE RESOLUTION PROCEDURE

17.1 The parties shall attempt, in good faith, to resolve any dispute promptly by negotiation.

17.2 The dispute shall be referred to the ICT Shared Services Governance Board.

17.3 If the ICT Shared Governance Board fails to resolve the dispute within 14 days from the date of the referral, either Party may refer the dispute to the Chief Fire Officers employed by the Parties.

17.4 If the Chief Fire Officers fail to resolve the dispute within 14 days of the referral, the Parties shall refer the dispute for Expert Determination.

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

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

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

17.8 The parties are entitled to make representations 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.

17.9 Each Party shall supply each other with all information and give the other access to all documentation and personnel as the other Party reasonably requires to make a submission under this Clause.

17.10 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.

17.11 Each Party will bear its own costs in relation to the reference to the Expert. The Expert's fees and any costs incurred by him/her in arriving at a determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the Parties equally or in such proportions as the Expert shall direct.

17.12 Nothing in this Clause shall prevent either Party from instigating legal proceedings.

18 SEVERANCE

18.1 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 this Agreement.

18.2 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.

19 NOTICES

19.1 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 first class post, registered post or by the recorded delivery service), by 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.

19.2 For the purposes of Clause 19.1 the address of each Party shall be:

For BFRA: Head of Strategic Support, Bedfordshire Fire and Rescue Service, Southfields Road, Kempston, Bedford, MK42 7NR.

For CPFA: Head of ICT, Hinchingsbrooke Cottage, Brampton Road, Huntingdon, PE29 2NA.

19.3 Either Party may change its address for service by serving a notice on the other Party in accordance with this clause.

20 ENTIRE AGREEMENT

This Agreement and all documents referred to in this Agreement set forth the entire agreement between the Parties with respect to the subject matter covered by them and supersede and replace all prior communications, representations (other than fraudulent representations), warranties, stipulations, undertakings and agreements whether oral or written between the Parties. Each Party acknowledges that it does not enter into this Agreement in reliance on any warranty, representation or undertaking other than those contained in this Agreement and that its only remedies are for breach of this Agreement, provided that this shall not exclude any liability which either Party would otherwise have to the other in respect of any statements made fraudulently by or on behalf of it prior to the date of this Agreement.

21 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by the laws of England and Wales and subject to Clause 17 (Dispute Resolution Procedure) the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

IN WITNESS WHEREOF the Parties have caused their respective Common Seals to be hereunto affixed to this deed the day and year first before written

The Common Seal of)
Bedfordshire Fire and Rescue)
Authority)
was hereunto affixed)
in the presence of)

Secretary

The Common Seal of)

Cambridgeshire and Peterborough)

Fire Authority)

was hereunto affixed)

in the presence of)

Monitoring Officer