



Joint thinking, joint working



AGREEMENT FOR THE PROVISION OF POLICING SERVICES IN YORKSHIRE AND THE HUMBER

Collaborating partners:

The Chief Constable of Humberside Police

The Chief Constable of North Yorkshire Police

The Chief Constable of South Yorkshire Police

The Chief Constable of West Yorkshire Police

The Police and Crime Commissioner for Humberside

The Police and Crime Commissioner for North Yorkshire

The Police and Crime Commissioner for South Yorkshire

The Police and Crime Commissioner for West Yorkshire

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This AGREEMENT is made on the _____ day of _____ 2014 and will commence on the 1st day of April 2014.

BETWEEN The Chief Constables whose details appear at Appendix 1 and the Commissioners whose details appear at Appendix 2.

1. DEFINITIONS

In this Agreement the terms below have the following meanings:

1.1 **Agreed Cost Proportions** means the basis upon which all costs and savings relating to or arising from a Regional Function are apportioned between the participating Parties.

Agreement means the Collaboration Agreement between the Parties as contained and referred to in this document.

Assumed Contracts means contracts entered into by any of the Parties hereto prior to the Function Transfer Date in respect of Regional Function.

CCOB means the Chief Constables Operational Board.

Chief Constable means a Chief Constable from time to time of any of the Forces and the term shall have the meaning set out in Section 2 of the Police Reform and Social Responsibility Act 2011.

Chief Constables means the Chief Constables who are collectively Party to this Agreement.

Claim means any action, proceeding, claim or demand made by any person other than a Party pursuant to this Agreement and/or the First Collaboration Agreement.

Claims Lead Party means the Party nominated by the Parties on a case by case basis to manage, be responsible for and have care and conduct of the defence of a Claim.

Commencement Date means the date on which this Agreement shall commence.

Commissioners means Elected Local Policing Bodies for the Forces (also known as Police and Crime Commissioners) and the term shall have the meaning set out in Section 1 of the Police and Social Responsibility Act 2011.

Confidential Information means all information of a confidential nature disclosed (whether in writing, verbally or by any other means whether directly or indirectly) by one Party (“the Disclosing Party”) to another Party (“the Receiving Party”).

Data Controller means has the meaning set out in the Data Protection Act 1998.

Data Protection Legislation means the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications Lawful Business Practice, Interception of Communications Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy including where applicable guidance and codes of practice issued by the Information Commissioner.

Effective Date means the date of this Agreement.

Exit Date means the date (or if more than one the relevant date as the context requires) on which a Collaborative Function (or part thereof) terminates or ceases.

Financial Year means a period from the 1 April in one year to the 31 March in the subsequent year.

Force or Forces means Humberside Police, North Yorkshire Police, South Yorkshire Police and West Yorkshire Police being Police Forces maintained under Section 2 of the Police Act 1996.

Functional Collaboration Agreement means an Agreement relating to the collaborative delivery by the Forces and/or the Commissioners of a Collaboration Function.

Function Transfer Date means the date on which the Parties agree a Functional Collaboration Agreement should commence.

Governance Arrangements means the arrangements for governance of all Regional Functions set out at Appendix 3 hereof.

Intellectual Property Rights (IPR) means any and all Intellectual Property Rights of any nature anywhere in the world whether registered, registrable or otherwise, including patents, utility models, trademarks, registered designs and main names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know how any other Intellectual Property rights which subsist in computer software, computer programmes, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of any websites.

Lead Contracting Party means the Chief Constable and/or Commissioner as the case may be acting as the principle contractor when undertaking a procurement on behalf of themselves and other Forces.

Lead Force means the Chief Constable or the Commissioner (as the context so permits) which is appointed pursuant to clause 11 hereof and assumes responsibilities as outlined in clause 12 hereof and the term Lead Force Chief Constable and Lead Force Commissioner shall construed accordingly.

Licensed Equipment means all equipment owned or used by the parties which use of or access to may be required by the Lead Force in order to deliver a Regional Function.

Losses means any damages, liabilities, awards, costs, charges, losses and expenses.

Party or Parties means a Party or Parties to this Agreement.

Personnel means all Police Constables and Police Civilian members of staff (or either of them as the context so admits) engaged in a Regional Function.

Police Act means the Police Act 1996.

Region means the combined geographical police areas of the Commissioners and their Chief Constables and the term Regional shall be construed accordingly.

Regional Asset means property, including freehold or leasehold, plant or other equipment utilised for the delivery of a regional function other than those which by virtue of Section 17.7 remain in the ownership of any of the Parties hereto.

RCB means the Regional Collaboration Board.

Regional Function means any operational or non operational function delivered collaboratively by the Forces and/or the Commissioners (or any of them) within the Region pursuant to the terms of this Agreement and the relevant Functional Collaboration Agreement.

Regional Partners means those parties to this Agreement not party to any Sub Regional Agreement.

Relevant Transfer means any transfer of employees in connection with commencement, termination or cessation of any collaborative activity or function (in whole or in part) to which TUPE applies.

Returning Employee means those employees whose employment transfers pursuant to TUPE from a Termination Transferor Party or a Third Party Provider to a Termination Transferee Party (or its direct or indirect

subcontractor) in connection with the termination or cessation of any collaboration activity or function (or part thereof) (or whose employment would have transferred but for an objection to transferring by such employee under Regulation 4(7) of TUPE as a result of an actual or anticipatory breach of contract or materially detrimental change to working conditions within the meaning of Regulation 4(9) of TUPE in either case by the Termination Transferee Party or its direct or indirect subcontractor).

Shared means that the relevant costs or Losses shall be met by those Parties participating in the relevant Regional Collaboration in the Agreed Cost Proportions or such other proportions as represent the proportions in which the relevant participating Parties have agreed to share costs in relation to a Collaborative Activity in which not all the Parties agree to participate.

Sub Regional Agreement means a Collaboration Agreement entered into between some but not all of the Parties to this Agreement.

Termination Notice means a written Consensual Termination Notice as referred to in clause 9.1 or a Unilateral Termination Notice as referred to in clause 9.2 or a Default Termination Notice as referred to in clause 9.4 as the context so admits.

Third Party Provider means any undertaking engaged (directly or indirectly) by the Parties or any of the Parties to provide any collaborative activity or function pursuant to this Agreement.

Transfer Date means the date (or if more than one the relevant date as the context requires) on which the Party, Parties or Third Party Provider commences the oversight and coordination or provision (as the case may be) of a Collaborative Function for and on behalf of other Parties pursuant to the terms of this Agreement (and Function Transfer Date shall have the same meaning).

Transferring Employee means each of those employees whose employment transfers pursuant to TUPE from a Commencement Transferor Party (or its direct or indirect subcontractor) to a Commencement Transferee Party or Third Party Provider in connection with the commencement of any

collaborative function pursuant to this Agreement (or whose employment would have transferred but for an objection to transferring by such employee under Regulation 4(7) of TUPE as a result of an actual or anticipatory breach of contract or materially detrimental change to working conditions within the meaning of Regulation 4(9) of TUPE in either case by the Commencement Transferee Party or Third Party Provider).

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

2. THE LEGAL CONTEXT

- 2.1 Section 22A of the Police Act enables two or more policing bodies or the chief officers of one or more police forces and two or more policing bodies to enter into a collaboration agreement.
- 2.2 A collaboration agreement may contain “force collaboration provision”, “policing body collaboration provision” or “policing body and force collaboration provision” as set out in Section 22A (2) of the Police Act.
- 2.3 A chief officer may make a collaboration agreement only if the chief officer is of the view that it is in the interests of the efficiency and effectiveness of one or more police forces.
- 2.4 A policing body may make a collaboration agreement if it is of the view that the agreement is in the interests of the efficiency and effectiveness of one or more policing bodies or police forces.

3. THE PURPOSE OF THE FRAMEWORK COLLABORATION AGREEMENT

- 3.1 Following the previous Collaboration Agreement made on 3rd of August 2012 Between the Commissioners and the Chief Constables (“First Collaboration Agreement”) the Parties now wish, in the interest of efficiency and effective policing, to enter into this further Agreement based on a Lead Force model for the better performance of police functions to be delivered collaboratively across the Region for which the Chief Constables have policing responsibility and for which the Commissioners are responsible to their communities.

- 3.2 This Agreement establishes the governance and management arrangements whereby such collaboration between the Forces within the Region will be regulated.
- 3.3 This Agreement is intended by the Parties to constitute and operate as a Agreement pursuant to Sections 22A and 23 and 23A of the Police Act.
- 3.4 Unless otherwise agreed pursuant to the relevant Functional Collaboration Agreement the Parties agree that in so far as any aspect of collaboration within the Region involves the overseeing, coordination or management of a Regional Function by one Force or one Commissioner for or on behalf of other Forces or Commissioners then such arrangement is considered to be a jointly controlled collaboration exercise between public entities whereby the burdens and obligations of such collaboration are borne by the Parties in proportion to their respective resources.
- 3.5 In respect of each discrete function which the Parties shall agree to deliver collaboratively a separate Collaboration Agreement (to be known as a Functional Collaboration Agreement) shall be entered into by the Parties. Where there is any inconsistency or conflict between the Terms of this Agreement and the Terms of any Functional Collaboration Agreement then the provisions of the Functional Collaboration Agreement shall be preferred and shall prevail.
- 3.6 Nothing in this Agreement shall prevent two of the Forces and/or their respective Commissioners from entering into an agreement which may already be subject to a separate agreement between two other regional Forces.

4. ADDITIONAL PARTIES

- 4.1 Further Chief Constables, Commissioners and other persons may be added to this Agreement with the agreement of the Parties.

5. CONSTRUCTION OF TERMS

5.1 In this Agreement unless otherwise specified;

5.2.1 The headings are for convenience only and shall not affect its interpretation.

5.2.2 References to a section, clause, paragraph or appendix are to a section clause, appendix or paragraph within this Agreement.

5.2.3 Any reference to this Agreement or to any other documents shall include permitted variation, amendment or supplement to such document.

5.2.4 Any reference to any statute shall include references to such statute as it may have been, or may from time to time be amended, consolidated or re-enacted and to any regulation or subordinate legislation made under it (or under such an amendment, consolidation or re-enactment).

5.2.5 Any phrase introduced by the term “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and the words following any of those terms shall not limit the sense of the words preceding those terms.

5.2.6 The words “in writing” and “written” mean “in documented form” whether electronic or hard copy, unless otherwise stated.

5.2.7 Reference to the plural shall include the singular and vice versa and reference to one gender includes references to all genders.

5.2.8 Any reference to a person shall be to a legal person of whatever kind whether incorporated or unincorporated, and to its successors, admitted assigns and transferees.

- 5.2.9 Words shall not be given any restrictive interpretation by reason only of their being preceded or followed by words indicating a particular class of acts, matters or things.
- 5.2.10 Any reference to a notice, consent, approval agreement and/or permission being required under this Agreement shall unless expressed to the contrary in this Agreement be given in writing.
- 5.2.11 All Agreements on the part of any Party comprising more than one person or entity should be joint and several throughout this Agreement and the neuter singular.

6. GOVERNANCE

- 6.1 The Police Forces and the Commissioners have agreed a governance structure for collaboration within the Region .
- 6.2 The Governance Arrangements encompass the following bodies:
- RCB.
 - CCOB
- 6.3 The management of the Governance Arrangements will be in accordance with the provisions set out in Appendix 3 hereof.

7. DURATION OF AGREEMENT

- 7.1 This Agreement replaces the First Collaboration Agreement and all rights and obligations in respect of the First Collaboration Agreement shall cease to exist from the Commencement Date of this Agreement but without prejudice to any liability that has accrued before the Completion Date in respect of the First Collaboration Agreement and the rights and obligations of the Parties to this Agreement shall take effect on the Commencement Date of this Agreement and shall continue in full force and effect until terminated in accordance with section 9 hereof.

7.2 The subsisting Functional Collaboration Agreements in respect of the Regional Procurement Unit and the Regional Scientific Support Unit shall continue to have effect and shall be read as if reference in them to the Collaboration Framework Agreement was a reference to this Agreement, and not the First Collaboration Agreement.

7.3 This Agreement shall be signed by all the Parties to this Agreement and the original signed documents shall be held by Legal Services at Humberside Police in a waterproof and fireproof safe. All other parties to this Agreement shall be provided with a certified copy of the original signed document for their own records and safe keeping.

8. REVIEW OF COLLABORATION ARRANGEMENTS

8.1 This Agreement shall be reviewed by 31 March 2015 (the "Initial Review Date") and annually thereafter to determine if the Agreement remains fit for the purposes referred to in Clause 3.1 hereof.

8.2 The RCB shall determine annually whether it is necessary to review any one or all of the Regional Functional Agreements and the nature and extent of any such reviews shall be determined on a case by case basis by the RCB but may have regard to such matters as:

- Performance against any Business Case giving rise to a Functional Collaboration Agreement;
- Performance against any performance measures relevant to the Function;
- Whether the relevant Regional Functional Collaboration Agreement continues to provide value for money;
- Whether there would appear to be better or more effective means of achieving the policing outcomes addressed within this Agreement or any Functional Collaboration Agreement.

8.3 Notwithstanding the provisions of Paragraph 1 above, a review may also be commissioned by the RCB if it should be of the view that there have been significant or persistent failings in performance or if there should be any occurrence or series of occurrences which may give cause for concern.

8.4 All such reviews are intended to inform the budget setting process relevant to the Function under review and accordingly all reviews will commence no later than the 1st October in the year of commission and will be concluded by the 31st January in the following year

8.5 The review obligations provided in this Clause shall be without prejudice to all statutory obligations on the Parties to keep under consideration arrangements for potential collaboration in accordance with the Police Act 1996.

9. AMENDMENT TO AGREEMENT

9.1 Without prejudice to the power of the Secretary of State to prohibit the variation of an Agreement under Section 23G(4) of the Police Act, this Agreement may be altered by agreement made in writing between all the Parties.

10. TERMINATION

10.1 This Agreement or any Functional Collaboration Agreement may be terminated by the unanimous agreement in writing of all Parties (a Consensual Termination Notice).

10.2 Any Party may terminate their involvement in this Agreement or any Functional Collaboration Agreement by giving written notice of its intention to terminate (Unilateral Termination Notice) to the other Parties.

10.3 Any Party or Parties seeking to terminate this Agreement or a Functional Collaboration Agreement under clause 9.1 or 9.2 above must give not less than 12 months' notice in writing.

10.4 Upon a Party committing a material breach of this Agreement ("the Defaulting Party") the remaining Parties may serve on the Defaulting Party a Default Termination Notice giving no less than 12 months' notice to terminate this Agreement. Such Default Termination Notice may only be served when the processes contemplated in clause 34 have been exhausted.

11. CONSEQUENCES OF TERMINATION

- 11.1 Where any of the relevant Parties agree to terminate this Agreement or a Functional Collaboration Agreement under clause 9 above, then the date of termination and a relevant exit strategy will be agreed by the relevant Parties as set out in clauses 10.6 and 10.7 below.
- 11.2 Where this Agreement or a Functional Collaboration Agreement is terminated in accordance with Section 23H of the Police Act above, the date of termination will be the date specified by the Secretary of State in the appropriate notice.
- 11.3 A relevant Party terminating this Agreement or a Functional Collaboration Agreement under clause 9.2 above shall be liable.
- 11.3.1 To discharge its share of any contractual obligations entered into as part of this Agreement or any Functional Collaboration Agreement prior to the end of the notice period and;
- 11.3.2 To fulfil all other obligations due from it to other Parties in respect of this Agreement or relevant Functional Collaboration Agreement prior to and during the notice period.
- 11.4 Where this Agreement or any Functional Collaboration Agreement is terminated under clause 9 above the relevant Parties will be liable for all the costs and liabilities associated with the termination of the relevant Agreement (but not including the establishment of any replacement function) and (except as provided for otherwise in the relevant Functional Collaboration Agreement) for liabilities and costs arising from the operation of the relevant collaborative function and shall meet such costs in the Agreed Cost Proportions.
- 11.5 The Parties shall at all times act in good faith and provide each other with all reasonable assistance including all necessary and relevant expert and professional advice to facilitate the withdrawal of any one or all Parties from this Agreement or any Functional Collaboration Agreement and the discharge of their obligations and duties in accordance with the terms of the this

Agreement and any Functional Collaboration Agreement and adherence to the Collaboration Values set out at clause 16.

- 11.6 In addition to clause 10.5 the Parties shall cooperate in good faith to agree an exit plan setting out how the arrangements established pursuant to this Agreement will be terminated (“Exit Plan”).
- 11.7 Within six weeks of a Termination Notice being served all Parties shall each nominate no fewer than two suitably qualified and experienced Personnel to consider and agree a suitable Exit Plan, which plan will be made available to the RCB and CCOB as soon as possible and in any event no less than six months prior to the proposed termination date in order for the RCB and CCOB to provide any required guidance and make necessary arrangements within each of their own forces.
- 11.8 The Exit Plan shall have as one of its objectives the enabling of Parties to maintain continuity of operational effectiveness.

12. LEAD FORCE

- 12.1 Subject to the provisions of clause 11.4, the RCB with effect from the date of this Agreement, shall appoint a Force to be the Lead Force with regards to a particular Functional Collaboration Agreement.
- 12.2 The Lead Force agrees to act in the capacity of Lead Force and in accordance with clause 3.4 hereof to oversee the facilitation, management and provision of that particular function for which they are nominated as Lead Force (“Function”) and in accordance with the terms and conditions of this Agreement and the relevant Functional Collaboration Agreement.
- 12.3 The Lead Force shall be entitled to withdraw from this Agreement and/or the Functional Collaboration Agreement at any time upon giving 12 months’ notice (“Lead Force Termination”)
- 12.4 If:
- 12.4.1 the Lead Force is not delivering the Function to the standard set out in the Functional Collaboration Agreement and the

RCB determine that the Lead Force should no longer provide the Function; or

12.4.2 the Lead Force serves notice to withdraw from this Agreement and/or the Functional Collaboration Agreement ,

then:

12.4.3 the Lead Force shall have no further obligation to provide the Function following the date that is agreed between the Forces and the Lead Force, and the RCB shall appoint an alternative Lead Force to provide the Function from the date on which the Lead Force's obligations under the Functional Collaboration Agreement terminate. Before having effect any future appointments of the Lead Force must first be approved by the RCB.

12.5 If the Lead Force serves notice to withdraw from the Functional Collaboration Agreement or is requested to no longer provide the Function (a "Lead Force Termination Situation"), nothing in this Agreement shall prevent that Lead Force from continuing to be a party to this Agreement and receiving the Function from the new Lead Force who is appointed to provide the Function.

12.6 If a Lead Force Termination occurs, and there is no successor to take on the obligations of the Lead Force, the RCB shall determine what should happen in the circumstances.

12.7 The Parties acknowledge that in the context of a particular Functional Collaboration Agreement, there shall be a presumption where appropriate that such Personnel from the participating forces or local policing bodies as will be engaged in the function will transfer to the employment of the Lead Force. Furthermore the Parties acknowledge that the application of TUPE to any such transfer is properly to be construed upon the facts (including any agreement between the Parties, their respective bodies of Personnel, or a finding of a competent Court or Tribunal).

12.8 The Parties agree that in relation to collaborative functions which are delivered pursuant to the Lead Force provisions contained at clause 11

hereof, there shall be a presumption that the Employment Principles set out at Appendix 4 hereof, shall apply.

13. DUTIES OF LEAD FORCE

13.1 The Lead Force shall comply with the Governance Arrangements set out in this Agreement.

13.2 Any complaints in relation to this Agreement shall be referred to the RCB.

13.3 The Lead Force shall be responsible for delivering the Function and shall perform the Function (subject to the Forces reimbursing the Lead Force proportionally in respect of the costs it incurs in performing the Function) as set out in the Functional Collaboration Agreement.

13.4 The Lead Force shall provide the Function to each Force from the date of the Functional Collaboration Agreement.

13.5 In the event that the Lead Force fails to perform the Function in accordance with this Agreement or the Functional Collaboration Agreement details of such failure shall be referred to the RCB to determine the appropriate steps which should be taken which may include the transfer of the Function to a new Lead Force.

13.6 The Lead Force's duties where appropriate in accordance with the relevant Functional Collaboration Agreement shall include a duty to:

13.6.1 manage the delivery and operation of the Function.

13.6.2 ensure that the Function is delivered in accordance with the Functional Collaboration Agreement ;

13.6.3 proactively manage the Function to ensure that there are continued improvements in relation to the Function;

13.6.4 manage disputes arising under the Functional Collaboration Agreement;

13.6.5 prepare and reconcile accounts as between the Forces engaged in the Functional Collaboration Agreement ;

- 13.6.6 ensure the arrangement of any necessary insurance;
- 13.6.7 manage the receipt of funds under the Functional Collaboration Agreement ;
- 13.6.8 manage records in respect of the Functional Collaboration Agreement ;
- 13.6.9 promptly supply the Parties with copies of any notices served or issued under or in relation to the Functional Collaboration Agreement ;
- 13.6.10 use its reasonable endeavours to deliver value for money and cost efficiency in respect of the Function;
- 13.6.11 ensure that the Function is always provided in accordance with all relevant laws and regulations;
- 13.6.12 use reasonable endeavours to require personnel and seconded officers to report any health and safety incidents in compliance with the law and the Lead Force's processes and systems;
- 13.6.13 carry out any other duties which are specified by the RCB from time to time;
- 13.6.14 use all reasonable skill, care and diligence in the performance of the Function; and
- 13.6.15 deploy Personnel who are competent, qualified and experienced and properly trained to undertake the work assigned to them.

14. ROLE AND ACCOUNTABILITY OF THE LEAD FORCE CHIEF CONSTABLE

- 14.1 Personnel involved in the delivery of the Regional Function, including but not limited to Personnel seconded to the Lead Force, shall be under the direction and control of the Lead Force Chief Constable unless either

(a) the relevant Functional Collaboration Agreement is itself an agreement under s22A(1)(a) of the Police Act and solely involving Personnel who are necessarily outside the direction and control of Chief Constables; or

(b) the relevant Functional Collaboration Agreement makes specific provision for Personnel to be outside the direction and control of the Lead Force Chief Constable.

14.2 While the Lead Force Chief Constable is responsible to the other Forces and the RCB for the delivery of the Regional Function on behalf of the other Forces, and shall report to them accordingly he or she is by statute, accountable to the Lead Force Police and Commissioner and the provisions of this Agreement and/or the Functional Collaboration Agreement do not alter that statutory accountability.

15. OPERATIONAL AND SUPPORT SERVICE COSTS OF THE LEAD FORCE

15.1 To enable the delivery of the Regional Function, there are a number of administrative support responsibilities that shall be undertaken by the Lead Force, including but not limited to, finance, human resources and procurement.

15.2 All reasonable costs properly incurred by the Lead Force in the discharge of the functions referred to in Clause 14.1 above shall be met by the Forces and the Lead Force in the Agreed Cost Proportions.

15.3 The Lead Force may choose to appoint a specific individual who shall be responsible and accountable for the delivery of the Regional Function and the Functional Collaboration Agreement in accordance with the direction set by the RCB.

15.4 Notwithstanding any dispute under the terms of this Agreement and/or the Functional Collaboration Agreement, the Lead Force shall perform its obligations in accordance with this Agreement and the Functional Collaboration Agreement.

16. DUTIES OF THE FORCES

16.1 For the duration of this Agreement, the Forces shall :

- 16.1.1 act diligently and in good faith in all their dealings with each other;
- 16.1.2 not, without first consulting the Lead Force and subsequently obtaining the approval of the RCB, make any disposal of land or assets utilised by or in connection with the delivery of the Function;
- 16.1.3 not do anything to prevent or hinder the effective and efficient delivery of the Function;
- 16.1.4 contribute as appropriate towards the upkeep maintenance servicing renewal of all relevant equipment machinery and plant to ensure the continued delivery of the Function
- 16.1.5 carry out any procurement exercise in relation to the Regional Function (if applicable) in accordance with the Public Contract Regulations 2006 and with the applicable legislation;
- 16.1.6 support the Lead Force in the performance of its obligations under this Agreement and the Functional Collaboration Agreement ;
- 16.1.7 perform their obligations in accordance with all relevant laws and regulations and in accordance with the terms of this Agreement and the Functional Collaboration Agreement ;
- 16.1.8 provide such information to the Lead Force as the Lead Force shall reasonably require from time to time in order to carry out the Function;
- 16.1.9 carry out any other obligations as set out in this Agreement and/or the Functional Collaboration Agreement or any other obligations reasonably requested by the Lead Force from time to time.

17. COLLABORATION VALUES

- 17.1 The implementation of this Agreement and any Functional Collaboration Agreement arrangements shall adhere to and reflect the following principles:
- 17.2 Openness, communication, trust and information sharing on a formal and informal basis in a timely fashion;
- 17.3 Creating open dialogue between the Forces to discuss and resolve issues arising, irrespective of where faults may lie;
- 17.4 Recognising issues and conflicts will arise and openly acknowledging, discussing and addressing such issues;
- 17.5 Developing agreed and clearly understood mutual objectives whilst recognising and respecting each party's individual objectives;
- 17.6 Ensuring common objectives are clearly communicated, recorded and understood and reflecting any approved changes to those objectives. This includes ensuring that decisions are made and recorded in accordance with the governance of the Lead Force and the Governance Arrangements;
- 17.7 Working together to anticipate potential problems and enable the taking of preventative action, where appropriate;
- 17.8 Ensuring there is commitment to sound contract performance management, benefit realisation and reporting, including managing change and risk and that the agreement develops and changes to meet the Parties' business needs;
- 17.9 Taking account of the need to meet the Parties' commitments to diversity and equality of opportunity for their employees and those to whom services are provided.
- 17.10 Delivering the Function in accordance with the terms of this Agreement and the Functional Collaboration Agreement is the responsibility of the Lead Force. The role, governance structure and function of the RCB is set out in Appendix 3.
- 17.11 Recognition that by virtue of the statutory provisions contained in the Police Reform and Social Responsibility Act 2011 which circumscribe the manner

of collaboration between forces, it is provided that collaborative arrangements need not always be in the interests of efficiency and effectiveness of one individual force or policing body, but must serve those interests in respect of one or more or more than one of the collaborative partners.

18. ASSETS

- 18.1 Regional Assets procured on behalf of the Region for utilisation in respect of a Regional Function shall be held in the absence of agreement to the contrary by the Force or Commissioner procuring those assets in trust on behalf of such of the Parties as have contributed financially to the acquisition of those assets and in such proportion as those contributions bear to one another.
- 18.2 The Lead Force shall have responsibility to compile and keep an accurate inventory of all assets of greater value than £10,000.00 in its possession, procured, kept or disposed of in accordance with the performance of the Regional Function for which they are Lead Force.
- 18.3 Costs of maintaining Regional Assets including (without prejudice to the generality of this provision) repair, replacement, insurance and all relevant licenses shall be a Regional expense and shall be met from the budget allocated to the Regional Function for which the asset has been acquired, or otherwise as may be agreed from time to time between the Parties.
- 18.4 It is the responsibility of the transferring Force to ensure that VAT is accounted for correctly and in accordance with the rules prevailing at the time.
- 18.5 Subject to clause 17.6 and/or 17.7 hereof it is anticipated that the Parties will from time to time contribute equipment or assets to a Collaborative Function and in the absence of a provision in a Functional Collaboration Agreement to the contrary, such contribution will be made without charge and the contributing Party will, unless the contrary intention is expressly communicated to the RCB, waive all rights of ownership in or title to such

property which will be regarded as a Regional asset and maintained accordingly.

- 18.6 The provisions of clause 17 hereof do not apply in respect of land or buildings utilised in the delivery of a Regional Function in which one Party hereto has a freehold or leasehold interest procured other than for the purposes of a Regional Function. For the avoidance of doubt any Freehold or Leasehold interest procured prior to the date of this Agreement shall remain in the ownership of the Commissioner who procured such interest.
- 18.7 Assets with an estimated value of £25,000 or more at the date of their contribution to a Regional Function will remain the property of the contributing Party and no such contribution to the Region will be taken by the Parties as a waiver of any rights or title in that property. It shall be for the contributing Party to determine the value of any asset. Where more than one asset is contributed by a Party to a Regional Function each of which has an individual value of £5,000 or more, the contributing Party may aggregate the total value of those assets for the purpose of this clause.
- 18.8 Nothing in this clause shall preclude a Party agreeing that a specific asset or assets the individual value of which exceeds £25,000 should become a Regional asset in accordance with this clause 17 hereof.
- 18.9 Where a Party has contributed an asset for use in a Regional Function but has retained ownership of that asset then the cost of repair and maintenance of that asset will be charged to the Lead Force, which shall then be recharged to the other Parties in accordance with the Agreed Costs Proportions. Replacement shall be borne by the Parties in accordance with relevant Agreed Costs Proportions and such replaced asset will be a Regional asset.
- 18.10 Where a Party terminates this or any Functional Collaboration Agreement in accordance with clause 9 hereof (the "Terminating Party") then such Terminating Party shall return or release such Regional assets within its possession to the remaining Parties.

- 18.11 In the event of a Terminating Party being a Commissioner owning freehold property or having the benefit of leasehold property (not being property referred to in clause 17.6 hereof) which has been procured for a Regional Function then, unless otherwise provided for in any Functional Collaboration Agreement, such Commissioner will co-operate in the transfer or assignment of such interest to the remaining Parties.
- 18.12 A Terminating Party shall be entitled to the return to it of any Regional asset in relation to which that Party has maintained ownership.
- 18.13 Unless agreed to the contrary any monies realised from the disposal of Regional assets shall be deemed as Regional income for the year in which the disposal took place and applied accordingly.
- 18.14 In the event of this Agreement or any Functional Collaboration Agreement being terminated in accordance with clause 9 hereof then the RCB shall oversee the dissolution of the relevant Agreement or Agreements and, if appropriate, shall cause all Regional assets to be disposed of and liabilities discharged. Any financial surplus after the discharge of all liabilities shall be divided between the Parties in the Agreed Cost Proportions (or in such other Proportions as they have contributed to the Regional Function concerned) and the Parties shall bear any shortfall in the same proportions.
- 18.15 In seeking to dispose of assets the RCB shall use reasonable endeavours to obtain the market value for such assets provided that the RCB shall notify the Parties of the relevant market value and the Parties shall then have fourteen days in which to offer to purchase the asset in question.
- 18.16 If more than one Party shall seek to exercise its right to purchase in accordance with the preceding clause of this Agreement then the RCB shall invite those Parties to lodge sealed bids with the Chair of the RCB within fourteen days of being so invited. Such written offer constitutes an unconditional bid to purchase the asset to which it relates at the price contained within the bid and the RCB shall thereafter sell the asset in question to the Party who made the highest bid and payment shall be made within twenty eight days of appropriate notification to the highest bidder.

18.17 If upon termination under clause 9 hereof a Party seeking to terminate has vested in it a Regional asset which is subject to any outstanding financial liability whether by way of legal or equitable charge, operating lease or otherwise then it shall be a condition of any transfer of that asset in accordance with this paragraph that the transferee shall assume responsibility for all indebtedness subject to the consent of the creditor. If the asset is not so transferred then the Parties agree that they will indemnify the Terminating Party in respect of all costs, claims, losses, expenses and/or liabilities arising in respect of that asset.

19. THIRD PARTY SERVICE

19.1 The Parties agree that they may provide a service to other police forces that are not a Party to this Agreement.

19.2 Such service may be offered to Parties other than Police Forces (“Third Parties”) but only in circumstances in which the RCB is satisfied that:

19.2.1 delivery of the service to a third party will not adversely impact upon the service delivery to the Parties;

19.2.2 the relevant Regional Function has sufficient surplus capacity and that the delivery of the service to a third party will not adversely impact upon the service delivery to the Parties hereto;

19.2.3 the provision of a service to a third party will result in a financial surplus for the parties after payment of all costs associated with the delivery of that third party service;

19.2.4 the Parties have the necessary powers to contract with the third party and deliver the service and a written contract specifying the terms upon which the third party service is to be delivered has been approved and executed in advance of service delivery being commenced;

19.2.5 any competition law, state aid or other legal issues involved in the agreement for delivery of the third party service have been appropriately identified and addressed.

20. LICENSING AND TRANSFER OF EQUIPMENT AND CONTRACTS

20.1 Where any Regional Function involves the management of a Regional Function on behalf of the Parties by a Lead Force pursuant to clause 12 hereof and the provision of such Regional Function necessitates the Lead Force utilising or having access to another Party's equipment or systems (whether owned by such other Party or by a third party) then:

20.1.1 the other Party will;

20.1.1.1 license the Lead Force to use the Licensed Equipment for the purpose of the Regional Function with effect from a Function Transfer Date.

20.1.1.2 sub-license the benefit of the Assumed Contracts to the Lead Force (subject to any burden attaching to them) for the purposes of the Regional Function with effect from the Function Transfer Date.

20.2 If any consent of any third party is required to the sub-licensing of any Assumed Contract which has not been obtained prior to the Function Transfer Date then the relevant Parties shall each use all reasonable endeavours to obtain that consent as soon as possible after the Function Transfer Date.

20.3 Unless and until any Assumed Contract is appropriately sub-licensed or any other necessary consent is obtained, the Parties shall work together in good faith to agree such alternative solutions as may be deemed appropriate which may include the Parties finding an alternative source of supply, or the relevant Parties holding the benefit of any Assumed Contract as agents for the Lead Force.

21. LICENSING OF INTELLECTUAL PROPERTY RIGHTS ("IPR")

21.1 Where any agreement involves the provision of a Regional Function on behalf of the Parties by a Lead Force pursuant to clause 12 hereof then;

21.2 The Parties grant to the Lead Force a royalty free non-exclusive, non-transferable license during the term of the agreement to use;

21.2.1 the relevant IPR owned by the Parties

21.2.2 All documentation processes and procedures relevant to the collaborative function being delivered.

21.2.3 All data and databases relevant to the Regional Function being delivered including the right to grant a sub-license to any sub contractors provided that the relevant sub-contractor has entered into a confidentiality undertaking with the Lead Force in a reasonable form acceptable to the Parties.

21.3 The licence granted in this clause is granted only to the extent necessary for the operation of the relevant Regional Function in accordance with this Agreement.

21.4 A Lead Force shall only use the names of the Parties or any logos, emblems or any other images or any forms of words associated with them with their prior consent which is not to be unreasonably withheld or delayed.

22. IPR

22.1 In the event that any IPR arises or is generated in respect of technologies or methodologies developed by the Parties in the delivery of a Collaboration Function (to include any share of IPR which might arise from any Agreement between the Parties (or any of them) and a third party it should be owned in accordance with the Agreed Costs Proportions and if any such IPR rights are registerable or should otherwise be subject to protective measures, then the Lead Force will be responsible for applying on behalf of the Parties for registration or other protection in joint names. The Lead Force will also apply for appropriate protection of any IPR in such other countries as may be agreed between the Parties from time to time.

- 22.2 The Lead Force shall have an ongoing obligation to maintain or renew such registration or other forms of protection in the UK or elsewhere as agreed and the other Parties shall cooperate in the provision of all relevant information and shall bear the reasonable costs associated with such registration and protection procedures in the Agreed Costs Proportion.
- 22.3 Each Party shall immediately inform the other if it becomes aware of any infringement or proposed infringement of IPR rights or any other form of unauthorised use of technology in which the Parties assert ownership, and the Parties shall bear the cost of such enforcement proceedings as the RCB may authorise or in the same manner as they bear general liabilities.

23. PARTIES' DATA

- 23.1 Where any Agreement involves management of a Regional Function on behalf of other Parties by a Lead Force pursuant to clause 11 and the delivery of that function necessitates the provision of certain data by the Parties to the Lead Force ("Data") then such Data and any IPR which may subsist in it remain the property of the Party providing the Data.
- 23.2 The Lead Force shall:
- 23.2.1 not delete or otherwise interfere with any proprietary notices relating to the Data;
 - 23.2.2 not alter, retain, copy or disclose or utilise any of the Parties' Data except as may be necessary for the operation of the Regional Function;
 - 23.2.3 Preserve the integrity of all such Data and use reasonable endeavours to prevent loss, disclosure, theft, manipulation of or other interference with them.
 - 23.2.4 Make appropriate back up copies of all the said Data on such regular basis as is reasonable or otherwise at the request of the Parties or any one of them; and

23.2.5 Immediately notify the Parties if any of their Data are lost, damaged, corrupted or otherwise compromised whether accidentally or otherwise.

23.3 The Lead Force agrees to process the Parties' Data strictly in accordance with the principles contained within the Data Protection Legislation and in particular and without prejudice to the generality of the foregoing, to take reasonable precautions to preserve the security and integrity of the Parties' Data and prevent any corruption or loss of them.

24. AUDITS

24.1 Each agreement entered into pursuant to this Agreement shall be subject to such internal and external financial audits as determined by the RCB from time to time.

24.2 Without prejudice to any other legal requirement in respect of internal or external audit, any Commissioner may not more than once in any financial year and for a period of 12 months following the Termination of this Agreement, elect to carry out an audit in respect of any other Commissioner or Force, limited to the following specific purposes

24.2.1 To review the integrity and security of Data held in relation to the Agreement.

24.2.2 To consider the compliance by the other Commissioner or Force in question with the Data Protection Act 1998, the Freedom of Information Act 2000 and any other legislation relevant to the provision of a Regional Function.

24.2.3 To review any records or any books of account kept in connection with the provision of the Regional Function.

24.2.4 To carry out an audit of the Policing Body's accounts in relation to the provision of a Regional Function.

24.2.5 To verify the accuracy and completeness of management information supplied in accordance with this Agreement.

23.3 Without prejudice to the provisions of this clause the Parties may agree to such additional audit for whatever purpose as they see fit.

25. PROCUREMENT

25.1 The procurement of all equipment and services for use in relation to a collaboration activity shall be commissioned by the Lead Contracting Party utilising, unless otherwise agreed, the Regional Procurement Unit.

25.2 The Commissioners will work towards the development of common governance arrangements in respect of procurement and in particular will produce Regional Contract Standing Orders.

25.3 The Commissioners agree that all liabilities arising in relation to real property whether freehold or leasehold procured for the purpose of a Regional Function but vested in the name of a Commissioner shall be joint and several and the remaining Commissioners will indemnify that Lead Commissioner in respect of all obligations arising in respect of such properties and without prejudice to the generality of this provision, will in particular indemnify the Commissioner in respect of all rents, service charges, council tax, repairs, cost and/or claims arising in relation to any leasehold property.

26. SHARING OF COSTS

26.1 The costs of delivery of a Regional Function and all costs incidental thereto and all financial savings arising from the delivery of a Regional Function will be shared by the Parties in accordance with the Agreed Costs Proportion.

26.2 No delivery of a Regional Function shall commence before the Parties have agreed to the Agreed Cost Proportion relevant to such Regional Function and have entered into an appropriate Functional Collaboration Agreement in relation thereto.

- 26.3 The Agreed Costs Proportions will be subject to appropriate adjustment depending on the number of the Parties participating in a Functional Collaboration Agreement and the relevant apportionment will be set out in the annual budget for the Function and approved by the RCB.
- 26.4 All Parties agree to meet their financial contributions in full by the date that such contributions fall due.
- 26.5 A Party will be entitled to set off against any sums due from it, such sums as may be due to it provided that such sums are agreed in writing by all Parties.
- 26.6 The Parties will as soon as practicable develop a model for the determination of both costs and savings relevant to all Regional Functions.

27. BUDGETS, STRATEGIC AND BUSINESS PLANS

- 27.1 The RCB will set the funding payments and arrangements for the financial year 2014/15 and onwards and until such time funding shall continue to be paid on the existing basis.
- 27.2 All Forces will pay the Lead Force the substantive payment, as calculated by the RCB in accordance with the Forces' relevant contributions rates, via a monthly standing order. All other ancillary payments will be due within 28 days of receipt of an invoice from the Lead Force.
- 27.3 The Chief Finance Officer (as referred to in paragraph 4 of Schedule 2 of the Police Reform and Social Responsibility Act 2011) for each Lead Force shall be responsible for ensuring that a fully costed annual budget is prepared and submitted to the RCB by no later than the December meeting prior to the start of the subsequent financial year.
- 27.4 There will be a presumption that the recovery by the Lead Force of its reasonable costs will be limited to the cost of such Lead Force Personnel, premises and equipment as are wholly engaged or utilised (as the case may be) in delivery of a Regional Function and in the case of premises so utilised, the Parties agree that recovery may be sought in respect of entire

premises, or a self contained or an otherwise substantial and identifiable part thereof.

- 27.5 The Parties anticipate that in the course of the delivery of a Regional Function Parties other than the Lead Force may from time to time require certain of their own Personnel to undertake ad hoc or occasional work to support such Function or they may permit premises or equipment under their control to be utilised in support of delivery of a Regional Function and the Parties agree that in such cases (and in the absence of prior agreement to the contrary) no charge or set off will be made or sought in respect of such Personnel, premises or equipment..
- 27.6 A fully costed budget shall include, as a minimum, total Personnel, premises, vehicle, business support and all other running costs. Personnel costs shall be calculated on a full cost recovery basis and not standard costing rates and all vehicles will be recharged in accordance with the standard basis as calculated by the Regional Fleet Board.
- 27.7 The cost for premises shall be calculated on actual premises costs, including any notional rent. Where this is not possible then the premises costs shall be based on an average cost per square metre to be agreed annually by the Chief Finance Officers for the Forces and Lead Force.
- 27.8 The proposed budget as referred to in clause 26.4 hereof shall include all increases for remuneration or general price increases for ancillary items and expenses and the percentages to be applied for such increases shall be agreed by the Chief Finance Officers for the Forces and the Lead Force annually by August. Any increases proposed beyond actual awarded pay and contractually bound price increases must receive prior authorisation from the RCB via a business case.
- 27.9 The Lead Force will be responsible for submitting to the RCB appropriate financial monitoring information including, from September onwards, a forecast outturn position for their Function on a quarterly basis and shall make their accounts available for inspection by the Parties on receipt of reasonable written notice but no more than once in any one financial year.

- 27.10 The end of the financial year will be 31 March of each calendar year when accounts will be closed and by no later than 31st May in each calendar year a final memorandum set of statements shall be provided to each of the Forces by the Lead Force.
- 27.11 Reconciliation of accounts will take place as at 31 March in order to compare actual expenditure with projected expenditure. Following such reconciliation any saving made shall be repaid to the Parties in accordance with their Agreed Cost Proportion by 30 June in that same calendar year and any overspend will be calculated and payment made to the Lead Force in accordance with the Agreed Cost Proportion by 30 June that same calendar year.
- 27.12 Any dispute in respect of the application of the provisions set out in this clause will be resolved by the Chief Finance Officers for the Forces and the Lead Force.

28. DIRECTION AND CONTROL

- 28.1 The Chief Constables consider the transfer of direction and control is necessary for the effective and efficient discharge of a Regional Function and therefore all Personnel in respect of whom Chief Constables exercise direction and control and who are not already employed or subject to transfer of employment to the Lead Force pursuant to clause 11.7 hereof and are engaged in the delivery of a Regional Function shall be under the direction and control of the Chief Constable for the Lead Force unless agreed otherwise pursuant to the Functional Collaboration Agreement.
- 28.2 The Chief Constables may at any time cancel the transfer of direction and control of Personnel and recall them to their own Force (either on a permanent or temporary basis) to deal with operational or other exigencies but Chief Constables agree to use reasonable endeavours to ensure such cancellation is subject to a reasonable period of notice.

29. POLICIES

29.1 In the event of any discrepancy between the Lead Force operational policies and the operational policies of another Force in relation to a Regional Function, the Lead Force operational policies shall prevail and be adhered to by all other Forces.

30. RISK MANAGEMENT

30.1 The Parties agree to establish and maintain an appropriate system for the management of risk. That system shall include as a minimum:

30.1.1 The maintenance of risk registers in respect of business and legal risk arising from the nature of collaborative activity contemplated within this Agreement and in particular any risks arising from the implementation of a Lead Force model as provided for in clause 12 hereof.

30.1.2 An obligation upon the Lead Force to disclose to the Parties any matters which could give rise to the forms of liability referred to in clause 30 and 31.

30.1.3 An obligation upon the Parties to cooperate in the identification and execution of measures to minimise the likelihood and/or impact of risks being realised.

30.1.4 An expectation that the Lead Force shall have responsibility for administering the maintenance of the said registers save that the CCOB will be responsible for maintaining a register of generic risks relating to this Agreement.

31. GENERAL LIABILITIES

31.1 Each Party shall indemnify on demand and hold harmless each other Party against all claims arising out of or in connection with the provision of a Regional Function or any failure to provide the Regional Function, in accordance with the following provisions:

31.1.1 Subject to the provisions of clause 30.4 the Losses arising as a consequence of a Claim (including the costs and expenses incurred by the Claims Lead Party) shall be met by the Parties in the Agreed Costs Proportions.

31.1.2 clauses 30.1 and 30.2 shall not apply to any Claims or Losses to which clause 31 applies.

31.1.3 to the extent that a Party is entitled to recover any Losses under a policy of insurance then the applicable Party shall be required to pursue a claim under such policy ("Insurance Claim") and the indemnities in this Section and in Section 30 shall only apply to such element of the Losses (if any) that are not recovered under the Insurance Claim(s) made by the Parties.

31.1.4 should a Claim be notified to a Party it shall promptly provide written notification to the other Parties specifying the nature of the Claim in reasonable detail.

31.1.5 the Claims Lead Party shall exercise care and conduct in respect of the legal response to all Claims including any settlement negotiations in respect of the same ("Claims Defence") and the other Parties shall provide such assistance to the Claims Lead Party as it shall reasonably require in respect of each such Claim.

31.1.6 the Claims Lead Party shall be entitled to appoint lawyers to act on behalf of the Parties in respect of the Claim, including external lawyers should the Claims Lead Party consider this to be appropriate.

31.1.7 save for the Claims Lead Party the Parties shall not make any admission of liability, agreement or compromise in relation to any Claim or take any other action (including making any statements which may be prejudicial to the defence or settlement of any Claim) without the prior written consent of the Claims Lead Party.

31.2 The Claims Lead Party shall:

31.2.1 conduct each Claims Defence diligently and in good faith;

- 31.2.2 update the Parties in respect of each Claims Defence at such intervals as it shall reasonably determine;
 - 31.2.3 at the request of a Party provide to that Party such information in respect of a Claim as the requesting Party shall reasonably require;
 - 31.2.4 where reasonably practicable and if requested by a Party allow that Party to make representations in respect of a Claims Defence and the Claims Lead Party shall consider such representations in good faith; and
 - 31.2.5 not settle or compromise a Claim without the consent of all Parties (such consent not to be unreasonably withheld, delayed or conditioned) other than where it obtains a legal opinion to the effect that the failure to settle or compromise on the terms proposed is likely to increase the Losses to be indemnified pursuant to this clause.
- 31.3 notwithstanding the previous provisions of this clause, no Party excludes or limits its liability for:
- 31.3.1 death or personal injury caused by its negligence, or that of a person for whom it is vicariously liable;
 - 31.3.2 fraud or fraudulent misrepresentation;
 - 31.3.3 or any other liability that cannot be lawfully excluded or restricted.

31.4 The provisions of this clause and clause 31 shall continue in force notwithstanding the termination or expiry of this Agreement.

32. EMPLOYMENT LIABILITIES

32.1 Subject to the remainder of this clause and save as expressly provided to the contrary in this Agreement each Party shall be responsible and liable for all Claims by or in respect of their own Personnel together with any Losses arising out of or in connection with such Claims.

- 32.2 In the event that TUPE applies in relation to the commencement of any Agreement to transfer employees from one Party ("Commencement Transferor") or its direct or indirect sub-contractor to another Party ("Commencement Transferee") or a Third Party Provider then, subject to clause 31.10 below, the following shall apply.
- 32.3 The Commencement Transferor shall indemnify and hold harmless the Commencement Transferee and any relevant Third Party Provider against all Losses arising as a consequence of any Claim arising out of or in connection with the employment or termination of employment of any Transferring Employee in respect of any period prior to the Transfer Date.
- 32.4 The Losses arising as a consequence of any Claim arising out of or in connection with:
- 32.4.1 the employment or termination of employment of any Transferring Employee in respect of any period on or after the Transfer Date and up to the Exit Date; and/or
 - 32.4.2 any actual or anticipatory change to the terms and conditions of employment or working conditions of any Transferring Employee to the material detriment of such Transferring Employee in connection with the Relevant Transfer shall be Shared. Each Party shall indemnify and hold harmless each other Party to give effect to this clause.
- 32.5 In the event that direction and control (within the meaning of Section 23A-I of the Police Act) of police officers or employees (but not the employment of employees) transfers from a Party (or its direct or indirect subcontractor) to another Party acting as a Lead Force in connection with a Regional Function then any Losses arising in consequence of any Claim by or in respect of such employees or police officers arising out of or in connection with any act, omission or other matter or occurrence during the period of transferred direction and control shall be shared. Each Party shall indemnify and hold harmless each other Party to give effect to this clause.
- 32.6 In the event that a Party acting as a Lead Force or Lead Commissioner in connection with any Regional Function recruits, engages or appoints

personnel specifically to work in connection with that Regional Function then any Losses arising in consequence of any Claim by or in respect of such Personnel arising out of or in connection with any act, omission or other matter or occurrence during the period of the collaborative activity or function shall be Shared. Each Party shall indemnify and hold harmless each other Party to give effect to this clause.

32.7 If TUPE applies in relation to the termination or cessation of a Agreement (or part thereof) to transfer employees from a Party ("Termination Transferor") or a Third Party Provider to another Party ("Termination Transferee") (or its direct or indirect subcontractor) then, subject to clauses 30.3 above and 30.10 below, the following shall apply:

32.7.1 all Losses arising as a consequence of any Claim arising out of or in connection with the employment or termination of employment of any Returning Employee in respect of any period prior to the Exit Date shall be Shared;

32.7.2 the Termination Transferee shall indemnify and hold harmless the Termination Transferor and any Third Party Provider against all Losses arising as a consequence of any Claim arising out of or in connection with the employment or termination of employment of any Returning Employee in respect of any period on or after the Exit Date.

32.8 In the event that TUPE does not apply in relation to the termination or cessation of a Agreement (or part thereof) then the following shall apply:

32.8.1 each Party participating in the relevant Collaborative Function shall co-operate to:

32.8.2 Ensure that Personnel in respect of whom direction and control (but not employment where applicable) transferred to a Party acting as a Lead Force or Lead Commissioner in connection with the relevant Agreement return to the Force of which they are members.

32.8.3 ensure that effective individual and collective consultation (in line with legal requirements and collective agreements) takes place with and regarding Personnel engaged in the Regional Function

concerning the termination or cessation of the Agreement and its impact on their employment or appointment;

32.8.4 ensure that any necessary redundancy process (including any necessary redundancy selection) is carried out reasonably and in line with applicable legal requirements and collective agreements;

32.8.5 use reasonable endeavours to find suitable alternative employment within one of the Parties for any employee whose position becomes redundant as a result of the termination or cessation of the Agreement and to facilitate the transfer of such employee to such re-deployed position.

32.9 In the event that the employment of any employees assigned to a Regional Function terminates by reason of redundancy as a result of the termination or cessation of that Agreement (or part thereof) then:

32.9.1 the redundancy costs relating to such redundancies; and

32.9.2 any Losses arising as a consequence of any Claim arising out of or in connection with such redundancies

32.9.3 shall be shared. Each Party shall indemnify and hold harmless each other Party to give effect to this clause.

32.10 Each Party shall indemnify on demand and hold harmless each other Party against all Losses arising as a consequence of any Claim arising out of or in connection with a Party's failure to comply with its own obligations in respect of information and consultation in relation to any employees in connection with any Relevant Transfer.

32.11 Each Party shall co-operate with each other Party in connection with any potential Relevant Transfer to ensure that:

32.11.1 subject to and in accordance with applicable Data Protection Legislation, all relevant information is shared with relevant Parties (and any relevant Third Party Provider) in good time to facilitate any tender process with any potential Third Party Provider and to ensure the smooth transfer of employees in line with good employment practice and TUPE. Wherever possible each Party will

comply within 20 working days with any reasonable information request made by any other Party in this regard.

32.11.2 any and all information and consultation with or regarding any employees affected by any Relevant Transfer takes place smoothly and in line with legal requirements, any applicable collective agreements and good employment practice.

32.12 Where the Parties agree to engage (directly or indirectly) any Third Party Provider in connection with any Agreement where TUPE applies or is expected to apply on the commencement or termination or cessation (in whole or in part) of such Agreement:

32.12.1 the Parties will use reasonable endeavours to ensure that the Third Party Provider provides appropriate indemnities to any transferor or transferee Party in relation to any Relevant Transfer consistent with the provisions set out in this Section.

32.12.2 Any transferor or transferee Party shall grant directly to the relevant Third Party Provider an appropriate indemnity to give effect to clauses 28.7.2, 27.9.2 and 28.10..

32.13 For the avoidance of doubt the indemnities and other provisions contained within this Clause shall also apply to Personnel whose transfer to the Lead Force is not subject to TUPE and/or to personnel wholly engaged in the delivery of a Regional Function who were employed by the Lead Force prior to the relevant Commencement Date.

33. RECRUITMENT TO VACANT POSTS

33.1 Newly created or vacant Personnel posts shall be established within the Lead Force unless provided otherwise under the terms of the relevant Functional Collaboration Agreement.

34. SUB REGIONAL AGREEMENTS

34.1 The Parties to this Agreement may enter into Sub Regional Agreements.

34.2 The Parties to any such Sub Regional Agreement may elect to adopt the governance arrangements and other provisions set out in this Agreement, or may adopt such alternative governance and other provisions as they see fit on a case by case basis.

35. DISPUTE RESOLUTION

35.1 Any difference or dispute between any of the Parties arising out of or in connection with this Agreement or any Functional Collaboration Agreement, including any question of the validity of this Agreement and any dispute arising before or after termination of the Agreement that cannot be resolved by the Parties will be referred to the RCB for resolution.

35.2 In the case of operational matters requiring resolution the matter will be referred to the CCOB.

35.3 If a resolution cannot be agreed the matter shall be referred to a single Arbitrator appointed by agreement by the RCB in accordance with the Arbitration Act 1996. The decision of the Arbitrator will be final and binding.

35.4 Upon referral to an Arbitrator all parties agree that they will co-operate fully and promptly in good faith with the Arbitrator and shall do all things that the Arbitrator might reasonably require to progress the Arbitration.

36. COMPLAINTS AND MISCONDUCT

36.1 All complaints and conduct issues raised by or against any Personnel whilst engaged whether permanently or temporarily in the provision of a Regional Function will be dealt with by their own Force or Commissioners in accordance with the relevant legislation for recording, managing and resolving complaints and conduct matters from time to time in force and in accordance with that Force's Professional Standards protocols or discipline policies relating to police civilian members of staff and the "appropriate authority" (as defined within the Police Reform Act 2002) within each Force shall at all times retain responsibility for complaints and conduct matters relating to members of such Force.

- 36.2 In the case of complaints or conduct issues relating to Personnel from more than one Force arising out of their working jointly in the delivery of a Regional Function (whether or not such Personnel have been the subject of a transfer of direction and control in accordance with clause 27 hereof) then such cases will be dealt with on a case by case basis but;
- 36.2.1 There will be a presumption that the department responsible for professional standards of the Force in whose policing area the complaint or conduct is alleged or believed to have occurred will be responsible for investigating those matters.
- 36.2.2 Where a number of Personnel from more than one Force are due to face misconduct or gross misconduct allegations arising from a joint working incident then the appropriate authority (within the meaning of the Police Reform Act 2002 and any regulations made there under) in each Force will agree on the appropriate arrangements for the investigation and disposal of such matters with consideration being given to the appointment of a single officer or single panel to deal with such matters.

37. CONFIDENTIALITY

- 37.1 Each Party to this Agreement agrees to be bound by a duty of confidentiality to the others in relation to any Confidential Information which now exists or which may in the future (whether during or after the Term) come into being. The Parties will not (other than in accordance with an order of a court of competent jurisdiction, or by way of response to a lawful request from a regulatory body) use, disclose or divulge any Confidential Information to any person (other than Personnel of the Parties) and shall use reasonable endeavours to prevent use, publication or disclosure of any Confidential Information by any other person.
- 37.2 The restrictions in the proceeding paragraph shall not apply to the extent that use of Confidential Information is expressly permitted elsewhere in this Agreement nor where such information was:

- 37.2.1 in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure;
 - 37.2.2 obtained from a third party without obligation of confidentiality or
 - 37.2.3 already in the public domain at the time of disclosure.
- 37.3 The Lead Force managing the delivery of the function may disclose Confidential Information belonging to the other Parties to the employees directly involved in the provision of the Function and who have a need to know that information but it would be the responsibility of the Chief Constable of the Lead Force to ensure that all such employees are aware of and comply with their obligations of confidentiality and with all restrictions imposed by the Data Protection Legislation in relation to the processing of data.

38. INFORMATION MANAGEMENT

- 38.1 All Parties shall share information where appropriate to fulfil the purposes of this Agreement and any Functional Collaboration Agreement subject to any conditions imposed by the Party providing the information in respect of such disclosure. The Parties shall endeavour to ensure compliance with the Data Protection Legislation through proper application of the Governance Arrangements contemplated in this Agreement.
- 38.2 For the purposes of the Data Protection Act 1998 each Chief Constable remains the Data Controller for any personal information recorded (in whatever format) on any information system under that Chief Constable's control.
- 38.3 For the purposes of the Freedom of Information Act 2000 (FOIA) the Force receiving a request under FOIA (acting where appropriate in consultation with one or more of the other Forces) will be responsible for responding to that request and with any subsequent compliance required under FOIA. Any FOIA requests received by any Force which relate to or touch upon the subject matter of this Agreement or any Functional Collaboration Agreement will be brought to the attention of the Lead Force and other Forces where

necessary as soon as practicable and at the request of the Force in receipt of FOIA request, the Forces will offer all reasonable assistance for responding to the FOIA request or any subsequent compliance requirement.

- 38.4 The Parties will apply the Government Protective Marking Scheme (and from the date on which it becomes effective the Governments Security Classification System) to all communications generated in relation to the purposes of this Agreement or a Regional Function.

39. WHISTLEBLOWING

- 39.1 Any Personnel of a Force or Commissioner who wishes to make a qualifying disclosure within the meaning of the Public Interest Disclosure Act 1998 must make that disclosure in accordance with the appropriate reporting mechanisms to the relevant officer within his or her own Force or Commissioner (notwithstanding that the information to be disclosed may relate to another of the Forces) or a prescribed body as identified within the Public Interest Disclosure Act 1998.

40. AUDIT AND INSPECTION

- 40.1 Lead Force arrangements will be subject to the normal external audit processes.
- 40.2 It is the responsibility of the Lead Force to provide all reasonably required assurances over their internal controls in relation to the Function.

41. PUBLICATION

- 41.1 The Parties agree that the provisions of Section 23E Police Act will be discharged by each Party by the publication of this Agreement.

42. FURTHER ASSURANCE

- 42.1 Each Party agrees to use all reasonable endeavours to do or to procure to be done all such further acts and execute or procure the execution of all such documents as any other Party may from time to time reasonably

require for the purpose of giving the other Parties the full benefit of the provisions of this Agreement.

43. NO AGENCY OR PARTNERSHIP

43.1 Nothing in this Agreement shall be deemed either to constitute a partnership between the Parties or constitute any Party the agent of any other Party.

43.2 No Party shall act or describe itself as the agent of any other Party, nor shall it make any representation that it has the authority of a Commissioner to make any commitments on behalf of any other Parties save when that Party acts in its capacity as a Lead Force as provided for in paragraph 12 hereof.

44. ENTIRE AGREEMENT

44.1 This Agreement, including its Appendices, sets out the entire Agreement between the Parties in connection with its subject matter and supersedes all prior oral or written agreements, arrangements or understandings between the Parties.

45. STATUTORY POWERS

45.1 Nothing contained or implied in this Agreement should prejudice or affect the rights, powers, duties and obligations of each of the Parties in the exercise of their respective functions as may be amended, supplemented or increased from time to time and the rights, powers, duties and obligations of each of the Parties pursuant to their respective functions may be as fully and effectually exercised as if this Agreement had not been made.

46. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

46.1 For the purpose of Section 1(2) of the Contracts (Rights of Third Parties) Act 1999 the Parties state that they do not intend any term of this Agreement to be enforced by any third parties.

47. ASSIGNMENT

47.1 Except where assignment or transfer occurs or is made necessary by operation of law none of the Parties may assign or transfer this Agreement as a whole, or any of the rights and obligations under it, without first obtaining the written consent of all the other Parties, such consent not to be unreasonably withheld or delayed.

48. BINDING NATURE OF THIS AGREEMENT

48.1 This Agreement is binding upon the Parties and their respective successors and permitted assigns.

49. ILLEGAL/UNENFORCEABLE PROVISIONS

49.1 If the whole or any part of any provision of this Agreement is void or unenforceable the other provisions of this Agreement and the enforceable part of any void or unenforceable provision will nonetheless continue in full.

50. WAIVER OF RIGHTS

50.1 If a Party fails to enforce or delays in enforcing an obligation of any other Party or fails to exercise or delays in exercising a right under this Agreement, such failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver by a Party of any provision of this Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on future occasion.

51. INTELLECTUAL PROPERTY AND KNOW HOW

51.1 Without prejudice to the provisions of Clause 17 hereof in the event of termination of this Agreement and no prior or subsequent relevant Agreement having been reached all IPR and know-how developed in the course of the delivery of any Regional Function (irrespective of the Force or Commissioner by whom the individuals responsible for that development are appointed or employed) will be vested in the Lead Force on trust for all Parties.

52. COUNTERPARTS

- 52.1 This Agreement may be signed in any number of counterparts and this has the same effect as of the signatures on counterparts or on a single copy of this Agreement.

53. LEGALLY BINDING

- 53.1 The Parties agree that this Agreement shall be fully legally binding between the Parties.

54. GOVERNING LAW AND JURISDICTION

- 54.1 This Agreement shall be governed by and construed in accordance with English Law and the Parties submit to the exclusive jurisdiction of the English Courts.

IN WITNESS whereof the Parties have signed below on the dates indicated

Signed for and on behalf of Chief
Constable for Humberside
Signature:
Name:
Position:
Date:

Signed for and on behalf of Chief
Constable of North Yorkshire
Signature:
Name:
Position:
Date:

Signed for and on behalf of Chief
Constable of South Yorkshire
Signature:
Name:
Position:
Date:

Signed for and on behalf of Chief
Constable of West Yorkshire
Signature:
Name:
Position:
Date:

Signed for and on behalf of the
Police and Crime Commissioner for
Humberside

Signature:

Name:

Position:

Date:

Signed for and on behalf of the
Police and Crime Commissioner for
North Yorkshire

Signature:

Name:

Position:

Date:

Signed for and on behalf of the
Police and Crime Commissioner for
South Yorkshire

Signature:

Name:

Position:

Date:

Signed for and on behalf of the
Police and Crime Commissioner for
West Yorkshire

Signature:

Name:

Position:

Date:

APPENDIX 1

1. THE CHIEF CONSTABLE OF HUMBERSIDE POLICE OF POLICE HEADQUARTERS, PRIORY ROAD, HULL, HU5 5SF.

2. THE CHIEF CONSTABLE OF NORTH YORKSHIRE POLICE OF NEWBY WISKE HALL, NEWBY WISKE, NORTHALLERTON, NORTH YORKSHIRE, DL7 9HA.

3. THE CHIEF CONSTABLE OF SOUTH YORKSHIRE POLICE OF POLICE HEADQUARTERS, CARBROOK HOUSE, CARBOOK, SHEFFIELD, SOUTH YORKSHIRE, S9 2DB.

4. THE CHIEF CONSTABLE OF WEST YORKSHIRE POLICE OF POLICE HEADQUARTERS, LABURNUM ROAD, WAKEFIELD, WEST YORKSHIRE, WF1 3QP

APPENDIX 2

1. POLICE AND CRIME COMMISSIONER FOR HUMBERSIDE OF PACIFIC EXCHANGE, 50 HIGH STREET, HULL, HU1 1PS.

2. POLICE AND CRIME COMMISSIONER FOR NORTH YORKSHIRE OF 12 GRANBY ROAD, HARROGATE, HG1 4ST.

3. POLICE AND CRIME COMMISSIONER FOR SOUTH YORKSHIRE OF PO BOX 18 REGENT STREET, BARNSELY, SOUTH YORKSHIRE, S70 2PQ.

4. POLICE AND CRIME COMMISSIONER FOR WEST YORKSHIRE OF PLOUGHLAND HOUSE, 62 GEORGE STREET, WAKEFIELD, WEST YORKSHIRE, WF1 1DL.

APPENDIX 3

GOVERNANCE ARRANGEMENTS

CHIEF CONSTABLE OPERATIONS BOARD

RESPONSIBILITIES

1. To determine operational strategy
2. To monitor operational effectiveness and efficiency of each collaborative activity.
3. To resolve all disputes in relation to operational issues.
4. To review from time to time the relevance adequacy and applicability of all Agreements.
5. To set budgets in respect of each operational activity at such periods as may from time to time agreed.

ROLES AND TERMS OF REFERENCE FOR THE RCB

- 1.1 The RCB will require Lead Force Chief Constables to account for the operational delivery of the Functions for which they are responsible.
- 1.2 The RCB will ensure that:
 - 1.2.1 plans for the delivery of all Regional Functions are agreed and implemented by the relevant Lead Forces;
 - 1.2.2 an annual report on performance of all Regional Functions is prepared and published;
 - 1.2.3 the RCB provides additional direction to the Lead Forces as and when required;
 - 1.2.4 all Parties are consulted on the significant future developments and delivery of Regional Functions;
 - 1.2.5 there are efficient and effective Regional Functions delivered within budget;
 - 1.2.6 the Lead Forces are held to account for the delivery of Regional Functions to the other Forces;
 - 1.2.7 the revenue streams that supports the Regional Functions are sufficient to absolve the Lead Forces of any financial loss arising out of or connected with the delivery of such Regional Functions.
- 2.1 The RCB shall perform an oversight function on behalf of the Forces and shall agree and oversee arrangements for accountability and performance management.
- 2.2 The RCB will meet not less than once every three months and will be responsible for the following matters (and any other matters as appropriate):
 - 2.2.1 ensuring that Regional Functions are managed in accordance with this Agreement and the relevant Functional Collaboration Agreements.
 - 2.2.2 publicly demonstrating accountability, value for money, effectiveness and efficiency and that suitable arrangements are in place for performance management;

- 2.2.3 setting and approving the annual revenue and capital budget for all Regional Functions;
 - 2.2.4 approving the operational model for the delivery of the Regional Functions;
 - 2.2.5 approving proposals for any significant alterations to the financial or operating models of the Regional Functions;
 - 2.2.6 considering and approving proposals for any significant capital expenditure or disposal of any significant assets;
 - 2.2.7 considering and approving contractual arrangements with any third party for the provision of a Regional Function by a Lead Force;
 - 2.2.8 resolving any high level strategic service delivery issues which cannot be resolved through line management arrangements;
 - 2.2.9 considering and approving mitigating actions for instances where there are exceptional and unplanned in-year costs that fall outside planned expenditure; and
- 2.3 The RCB will receive an annual report on the performance of all Regional Functions, including financial and operational performance, in accordance with the terms of the objectives of this Agreement and the relevant Regional Functional Collaboration Agreements. Such reports will be prepared by the Lead Force with responsibility for the relevant Regional Function. The reports will be produced to the RCB within three months following the end of each financial year.

MEMBERSHIP

- 3.1 The RCB shall comprise Commissioners and the Chief Constable (or their representatives) from each of the Forces.
- 3.2 The Chair of the RCB will be rotated on a bi-annual basis and be shared in a full rotational sequence by Commissioners.
- 3.3 The nominated Chair of the RCB will have full responsibility for all necessary administration in relation to the RCB, including but not limited to, the issuance of an agenda and the recording and circulation of the minutes of the RCB.

- 3.4 Each representative of the RCB may nominate one or more substitute members to attend any meeting of the RCB in place of their Police and Crime Commissioner or Chief Constable;

PROCEEDINGS AND MEETINGS

- 4.1 Meetings of the RCB will take place at a suitable venue and at a time to be determined by the Chair. In the event that the Chair is unable to attend a meeting he or she will nominate another Commissioner to Chair that meeting.
- 4.2 Meetings will not be quorate unless attended by either the Commissioner or the Chief Constable from each Force (or their representatives).
- 4.3 The RCB will endeavour to make decisions on a unanimous basis. Where a unanimous decision cannot be reached, the Chair will call for a vote. The Commissioner and Chief Constable from each Force shall together exercise one vote. Resolutions will be passed by a simple majority and in the event of a tie the Chair shall have a casting vote.

APPENDIX 4

EMPLOYMENT PRINCIPLES

1. The Parties wish to ensure so far as possible common standards and principles are applied to the employment and welfare of all personnel employed by a Lead Force in a Collaborative Function irrespective of which Party may from time to time fulfil the role of Lead Force for the purposes of the service delivery of such Function.
2. The Parties also acknowledge that inherent in the Lead Force model is the principle that such Lead Force will direct and manage staff in accordance with its own policies and practices.
3. The Parties confirm that where staff are transferred to a Lead Force in circumstances in which the provisions of TUPE do not apply by operation of law, then the Parties will manage such transfers in accordance with The Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 ("COSOP").
4. In contemplation of the implementation of the Lead Force model referred to in Section 11 of this Agreement and the presumption of the transfer of employment of personnel to a Lead Force the Parties provide the following mutual assurances in respect of such staff. Each Party will:
 - when discharging the responsibilities of Lead Force, in respect of personnel observe and fulfil all legal obligations imposed upon employers and will give proper consideration to the adherence to all Home Office, ACAS, or other relevant guidance and seek to implement as appropriate the best practice within the sector;
 - undertake early engagement with the recognised Trade Unions, personnel, Police Federation (where applicable) police officers, personnel associations to facilitate effective and sustainable business change and thereafter to implement a process of continuous consultation with Trade Unions and personnel to ensure that they are kept fully informed and consulted during the process of change;

- following any formal transfer of personnel, work expeditiously with all individuals subject to transfer to minimise disruption and uncertainty for them;
 - promote equality and diversity standards through any process of transfer, to include in particular all selection and appointment to Lead Force posts ensuring that all proposed change is subject to equality impact assessment;
 - ensure that reasonable steps are taken to avoid redundancies;
 - ensure that such personnel who exit any Force as result of processes contemplated in this Agreement are supported and treated with dignity and respect.
5. To reflect the mutual indemnities provided for in Section 31 of this Agreement but without derogation from the autonomy of the Lead Force, the Parties agree to consult from time to time through the Regional HR Support Group to establish best practice, to review its implementation, to consider any legal challenges brought by personnel and to consider all other issues of mutual interest in respect of the Lead Force employment model.
6. It is agreed that in relation to the establishment of each separate Regional Function in which it is anticipated that there may be a transfer of personnel to a Lead Force, the Parties will undertake a process of due diligence in order to ensure compliance with all legal obligations in relation to such transfers and to safeguard the welfare of personnel concerned. The Parties agree to develop as soon as practicable a template for use in connection with this process which will identify the discreet areas of enquiry and any statutory requirements to be fulfilled.
7. Each Lead Force will be responsible for the recruitment to vacant or newly created posts within a Regional Function and accordingly the recruitment practices and procedure of the Lead Force will be utilised. The Parties confirm that wherever possible they will seek to recruit to a Regional Function from the locality in which those recruited will be employed to work.

8. Vacancies within a Regional Function (whether in respect of existing or new posts) (subject to any statutory or other obligations upon the Lead Force) will be advertised in an agreed format across all Forces.
9. When personnel transfer from one Force to a Lead Force as contemplated in this Agreement, their years of service with the transferring Force will count towards their service with the Lead Force and the service with the two Forces shall be treated as continuous for all purposes including membership of the Local Government Pension Scheme.
10. The Parties agree to use reasonable endeavours to work towards the development of standardisation in working practices (as reflected in policies and procedures) relevant to the forms of collaboration contemplated in this Agreement.
11. In respect of personnel working within a Regional Function who are not to be employed by the Lead Force it is contemplated that direction and control of such personnel will be transferred to the Chief Constable of the Lead Force in accordance with Section 26 of this Agreement. Such personnel will remain subject to all contractual terms and conditions and policies relevant to their employment.
12. Police Officers posted to duties within a Regional Function will be subject to a transfer of direction and control in accordance with Section 26 of this Agreement. In relation to each Regional Function the Parties will agree a Scheme of Secondment which will apply to all police officers who may from time to time be posted to duties within that Regional Function.