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4 December 2009

Mr John Parry
Chief Fire Officer
Oxfordshire Fire & Rescue Service HQ
Sterling Road
Kidlington
Oxfordshire
OX5 2DU

Our Ref:
Your Ref:

Dear CFO John Parry

Transfer of Ownership of New Dimension Assets

This letter encloses the final documentation FRAs need to be in a position to agree transfer of ownership of New Dimension assets. We seek your Fire and Rescue Authority's signature of this documentation to be returned to the Department by 31 December 2009.

Through Fire Service Circular 59/2009, CLG has sought agreement from FRAs to sign-up to the transfer of ownership of New Dimension assets by the end of 2009. Enclosed with that Circular was the revised draft of the Transfer of Ownership Agreement to be considered by your relevant FRA Committee.

You have also received the Terms of Access to the New Dimension maintenance contract, which FRAs will be obliged to sign up to as part of the Transfer Agreement. FRA lawyers have also been provided the opportunity to view the Prime Contract, which is commercial in confidence and therefore not widely distributed. A copy of the final Terms of Access, identical to the general version circulated already but specific to each FRA, will be forwarded to you in due course.

The Department has also recently issued Fire Service Circular 72/2009 about the implementation of a recharging process on FRAs for avoidable maintenance costs. This Circular outlined indicative first year costs of the maintenance contract, which from 1 February 2010, FRAs will be responsible for regardless of whether the transfer of assets is enacted.

The last of the documentation, as outlined in FSC 59/2009, is the final copy of the Transfer Agreement, specific to each FRA, including the financial data of the New Dimension assets to be transferred to your authority. FRAs need this financial information to inform authority accounts prior to enactment of transfer occurring. Please find both these documents attached.

Fire and Resilience Directorate
Communities and Local Government
Zone 3/F2
Eland House
Bressenden Place
London SW1E 5DU

Tel: 0303 444 2801
Email: Fay.Smith@communities.gsi.gov.uk

You will wish to note that all New Dimension asset data will be subject to an asset reconciliation exercise, and potentially a revaluation exercise too. However it is unlikely that the figures will change significantly and the data here is therefore a good estimation of New Dimension asset values. Final financial data will be provided to your FRA in advance of the transfer date. In the meantime, an electronic version of the financial data enclosed with this letter can be provided on request.

As previously stated, we intend that the enactment of the transfer should be undertaken by end of this financial year and I can now confirm that the transfer date has been set as 31 March 2010. This is reflected in the Transfer Agreement attached. **Two copies of the Agreement are enclosed for signature. Please ensure that upon signature, the Agreement is validly signed as a deed by your FRA.**

To confirm that there have been minor changes to the Agreement, to reflect that it is now a final document. The most significant of these changes are that the draft table at Schedule 1 (the asset list) has been deleted and instead has been replaced with a more in depth spreadsheet detailing the list of assets to be transferred, along with all the relevant financial data associated with each asset, as referred to above. As a result, para 3.2 in the Transfer Agreement has been amended to reflect this.

Should your FRA have any queries on the documents enclosed or on the proposed transfer of assets more generally, please do not hesitate to contact me – my details are provided overleaf.

I look forward to receiving your returns, as set out in Circular 59/2009, by the end of December 2009.

Yours sincerely,



Fay Smith
New Dimension Policy Advisor



AGREEMENT

BETWEEN:

**(1) THE SECRETARY OF STATE FOR COMMUNITIES
AND LOCAL GOVERNMENT**

-and-

(2) OXFORDSHIRE COUNTY COUNCIL

An agreement for the transfer of
the New Dimension assets and functions

Contract Number: FRD/ND/TOA/FS/34

CLG Legal Directorate
Eland House
Bressenden Place
London
SW1E 5DU

THIS AGREEMENT is made on

BETWEEN

- (1) The Secretary of State for Communities and Local Government acting through the Department for Communities and Local Government of Eland House, Bressenden Place, London SW1E 5DU ("**the Department**"); and
- (2) Oxfordshire County Council ("**the FRA**").

BACKGROUND

- (1) The Department has for some time maintained and kept available for use assets for the purposes of the New Dimension Project in England ("**the New Dimension Assets**").
- (2) In accordance with Government policy, the Department wishes to transfer the ownership of the New Dimension Assets to the English Fire and Rescue Authorities. The specific equipment (being part of the New Dimension Assets) to be transferred to the FRA is listed in the Schedule 1 ("**the Equipment**").
- (3) The FRA has agreed with the Department with effect from 00.01 hours on 31 March 2010 ("**the Time of Transfer**") to accept the transfer of the Equipment in consideration of the assumption of the obligations ("**the Obligations**") set out in this Agreement in each case on the terms and conditions set out.
- (4) The transfer of the Equipment from the Department to the FRA shall be treated as a "transfer of function".

NOW IT IS AGREED as follows:

1. Interpretation
 - 1.1 Unless the context requires otherwise "Equipment" includes both the equipment to be transferred under this Agreement and any subsequent equipment purchased on behalf of the FRA, for the purpose of asset refresh and replacement, by the National Assurance Body, (or any successor body) established to provide the future governance for the New Dimension Assets.
 - 1.2 Unless the context requires otherwise, the singular shall include the plural and vice versa, and words expressed in any gender shall include any other gender.

- 1.3 The headings are inserted for convenience only and shall not affect the interpretation of this Agreement.
- 1.4 Save where express provision is made to the contrary, any reference to a statute, statutory provision or subordinate legislation shall be construed as a reference to that legislation, as amended and in force from time to time, including any re-enactment, consolidation or replacement (with or without modification). In the case of a statute or statutory provision, the reference shall also be construed as a reference to all subordinate legislation made under such statute or statutory provision.
- 1.5 Any reference to a Schedule is a reference to a Schedule to this Agreement.

2 Transfer

- 2.1 The Department agrees to transfer ownership, and the FRA agrees to accept that transfer with effect from the Time of Transfer, of the Equipment including without limitation all rights and claims of the Department against third parties with respect to the Equipment (including without limitation all rights in connection with insurance policies held by the Department subject to the consent of the relevant insurance companies) so far as the Department can assign the same BUT (for the avoidance of doubt):
- 2.1.1 excluding all intellectual property rights owned or used by the Department in relation to the Equipment; and
 - 2.1.2 excluding the communication equipment and associated wiring installed as part of the Firelink Project (Firelink Equipment) including all property, assets, rights and liabilities relating to the Firelink Equipment whether or not such Firelink Equipment is incorporated in to or attached to the Equipment.
- 2.2 The Department warrants that:
- 2.2.1 it has legal and equitable title to the Equipment prior to the Time of Transfer;
 - 2.2.2 no person has commenced or to its knowledge, threatened to commence, any legal proceedings in relation to the Equipment which would be materially inconsistent with the transfer of ownership of the Equipment under clause 2.1; and
 - 2.2.3 there are no encumbrances in respect of the Equipment or agreement by the Department to create such an encumbrance.

3 Consideration

- 3.1 The consideration for the [Assets] shall be the assumption by the FRA of the Obligations set out in this Agreement.
- 3.2 The accounts of the FRA shall reflect that the value of an item of Equipment listed in Schedule 1 is the amount specified in relation to that item in the column headed [Net Book Value as at 31 March 2010] in the document called [Oxfordshire FRS New Dimension Asset Financial Information as at March 2010].

4 Completion

- 4.1 Completion of the transfer shall take place at the Time of Transfer by which time the Department shall have delivered the Equipment to the FRA.
- 4.2 Risk and property in and title to the Equipment shall pass to the FRA at the Time of Transfer.
- 4.3 The Department shall at or as soon as practicable after the Time of Transfer deliver to the FRA all transfers assignments and novations (if necessary) in connection with the Equipment together with the relevant documents of title (as detailed in schedule 3) necessary to give effect to this Agreement.

5 Liabilities

The FRA agrees to accept the transfer of the Equipment on the terms of this Agreement but the Department shall retain and discharge all debts owing by the Department in respect of the Equipment and all other liabilities of the Equipment subsisting as at the Time of Transfer.

6 Further Assurance

The Department agrees and declares that it will after and notwithstanding completion of the transfer under this agreement execute and deliver any other documents and take any other steps that the Department considers necessary from time to time to vest in the FRA (or as it may direct) the Equipment.

7 Obligations

7.1 Firebuy Limited (Company number 5568715) ("Firebuy") (or any successor body thereof) has appointed a Prime Contractor under a prime contract for maintenance and management services in respect of the Equipment. The FRA shall contract for the maintenance and management services in respect of the Equipment from the Prime Contractor by entering into the relevant "Terms of Access" pursuant to the Access Agreement between the FRA and Firebuy. The FRA shall comply in all material respects with its obligations under the Terms of Access. The FRA agrees with the Department that, in the event of a breach of this term, specific performance would be the appropriate remedy to be granted by the court.

7.2 Subject to the Department complying with its obligations contained in this Agreement the FRA shall during the period of 16 years commencing at the Time of Transfer ("the Term"), comply with the obligations on its part set out in this Agreement and in Schedule 2.

7.3 The FRA shall be liable for all costs relating to the maintenance and management of Equipment under the Terms of Access.

7.4 The FRA agrees to:

7.4.1 maintain national interoperability of the Equipment;

7.4.2 Interoperability is the state of affairs where the Equipment remains capable of being used or operated in the same way as other New Dimension assets owned by other FRAs.

8 Costs

Each party shall bear its own costs of and incidental to the preparation and completion of this Agreement and the formation and registration of the transfer of the Equipment to the FRA.

9 Governing law

This Agreement shall be construed in accordance with and governed by the laws of England.

Schedule 1: The Equipment

Spreadsheet provided separately detailing the list of assets to be transferred along with their specific financial data.

Schedule 2**Obligations of the FRA**

1. The FRA shall not without the prior written approval of the Department (the Department agrees that any approval by the Department is not to be unreasonably withheld and any request is to be responded to by the Department as soon as reasonably practicable):
 - 1.1 change the specifications (amounts, technology etc.), stowage arrangements, their training or operating procedures, or relocate the Equipment;
 - 1.2 carry-out repairs and/or maintenance to the Equipment or engage or contract with any other person to undertake the same save in accordance with Clause 7.1, or save where Firebuy and the Prime Contractor appointed by Firebuy in accordance with Clause 7.1 have agreed that the FRA can undertake such repairs and/or maintenance;
 - 1.3 sell or otherwise divest any interest in the Equipment to any third-party; and/or
 - 1.4 deploy the Equipment overseas.

2. The FRA shall maintain the Equipment so that at all times it is fit for purpose including meeting the needs of a wider than local emergency for which it may be deployed under the [National Mutual Aid Protocol] or the [Emergencies Order], and so that in all material respects it meets the technical design specification at the Time of Transfer (as amended in accordance with paragraph 1.1 above)

3. The FRA shall use best endeavours to retain a level of competent staff such that the Equipment may be deployed in accordance with paragraph 2 above.

4. Until the whole [RCC network] is operational, the FRA shall report the status of the Equipment to the [Fire and Rescue Service National Coordination Centre (FRSNCC)]. The FRA shall notify the [FRSNCC] promptly:
 - 4.1 whenever any of the Equipment becomes operationally unavailable and is expected to remain so for more than four hours, within an hour of the FRA becoming aware of the defect;
 - 4.2 whenever any of the Equipment becomes operationally available and ready for deployment following a period of unavailability, including deployment;
 - 4.3 on changes in location of and contact numbers for the Equipment;
 - 4.4 when the Equipment is deployed to an incident.

and is required to complete and forward to the [FRSNCC] at the end of each month a Monthly

Validation Form (a monthly return by individual Fire and Rescue Services listing details of all New Dimension Assets hosted within their area).

4.5 Once the whole [RCC network] becomes operational, information on the Equipment will be obtained by the [RCC network] in the same way as for any other New Dimension Assets; there will no longer be a requirement to separately notify the [FRSNCC].

5 For the avoidance of doubt, the obligations of the FRA under this Agreement in relation to the availability and deployment of an item of Equipment shall not have effect for so long as: -

5.1 that item of Equipment is in the course of regular maintenance; or

5.2 that item of Equipment is awaiting or in the course of unplanned maintenance, repair or re-equipping.

Schedule 3

List of Relevant Documents of Title

None

The common seal of the Secretary of State for Communities and Local Government was affixed in the presence of:

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The common seal of Oxfordshire County Council was affixed in the presence of.

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