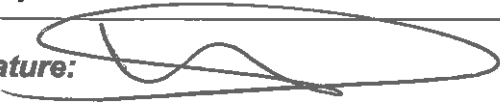


**POLICE AND CRIME COMMISSIONER (PCC) FOR LINCOLNSHIRE  
REQUEST FOR DECISION**

REF: 020 / 2017  
DATE: 5 October 2017

<b>SUBJECT</b>		<b>HOLMES MOU</b>
<b>REPORT BY</b>	<b>CHIEF CONSTABLE</b>	
<b>CONTACT OFFICER</b>	<b>Scot Dunn, Director of ICT Tel 01522 947232</b>	
<b>EXECUTIVE SUMMARY AND PURPOSE OF REPORT</b>		
<p>The Chief Constables (CCs) and Police and Crime Commissioners (PCCs) entered into a Memorandum of Understanding (MOU) to jointly fund the purchase of HOLMES in 2014. This MOU will expire on the 25<sup>th</sup> September 2017.</p> <p>Subsequently a decision was taken to renew the purchase of HOLMES and enter into a new MOU by Police and Crime Commissioners and Chief Constables.</p> <p>The MOU replaces any earlier agreement entered into in respect of HOLMES and the Project (including the original MOU) and governs the parties continued agreement in relation to the project. The parties consider that the continuation of the project would be in the interests of the efficiency and/or effectiveness of the participating policing bodies and police forces.</p> <p>The PCC's agreed that they shall jointly provide the financial resources required for the project in accordance with the terms and conditions of this MOU.</p>		
<b>RECOMMENDATION</b>	<i>It is recommended that this new MOU is signed by the Police and Crime Commissioner for Lincolnshire.</i>	

<b>POLICE AND CRIME COMMISSIONER FOR LINCOLNSHIRE</b>	
I hereby approve the recommendation above, having considered the content of this report.	
Signature: 	Date: 5/10/17

**A. NON-CONFIDENTIAL FACTS AND ADVICE TO THE PCC**

**A1. INTRODUCTION AND BACKGROUND**

1. HOLMES is used by EMSOU-MC but it is also used by the forces as well for other investigations not managed by EMSOU-MC.
2. HOLMES is used to investigate major crimes and complex investigations. It would be used for all murder investigations, but can also be used for such types of investigation such as fraud, historic child sex abuse cases, stranger rapes, etc.

3. HOLMES is also used to manage a Casualty Bureau. A Casualty Bureau would be set up in the event of a disaster where members of the public were injured and deceased, etc. The system would be used to record details of casualties, evacuees and survivors
4. The MoU records an agreement between the East Midlands Regional Chief Constables and PCCs to jointly fund the renewal of the purchase of HOLMES or any equivalent replacement system. It replaces any earlier agreements or memoranda and governs the parties continued agreement in relation to the Project.
5. The PCC for Nottinghamshire and Chief Constable for Nottinghamshire have agreed that they will provide the premises, equipment, staff, services and facilities required for the project within the East Midlands Region in accordance with the terms and conditions contained within the MoU.

## **A2. LINKS TO POLICE AND CRIME PLAN AND PCC'S STRATEGIES/PRIORITIES**

6. This agreement clearly has a direct impact on Lincolnshire police's ability investigate major crime, and complex investigations.
7. It is a key aspect of the fight against serious and organised crime in the county.

## **B. FINANCIAL CONSIDERATIONS**

8. The identified costs of the project are £175,730.00 and costs have been attributed via the regional funding formula. Lincolnshire's portion of this is £23,196.00

## **C. LEGAL AND HUMAN RIGHTS CONSIDERATIONS**

*[This should include the legal powers the PCC has for making the decision]*

9. This MoU has been reviewed by the East Midlands Police Legal Services.

## **D. PERSONNEL AND EQUALITIES ISSUES**

*[This should include a copy of the Equality Impact Assessment, if required]*

10. No personnel or equalities issues have been identified.

## **E. REVIEW ARRANGEMENTS**

11. There is an embedded review and management process within the MoU.

## **F. RISK MANAGEMENT**

12. There would be a risk posed to the force if this MoU was not reached. This would be managed via the force's risk register.

**G. PUBLIC ACCESS TO INFORMATION**

13. Information in this form along with any supporting material is subject to the Freedom of Information Act 2000 and other legislation. Part 1 of this form will be made available on the PCC's website within one working day of approval. However, if release by that date would compromise the implementation of the decision being approved, publication may be deferred. An explanation for any deferment must be provided below, together with a date for publication.

**Is the publication of this form to be deferred? No**

**If Yes, for what reason:**



**Until what date:**

Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead on the separate part 2 form.

**Is there a part 2 form? No**

**If Yes, for what reason:**

**DECLARATIONS**

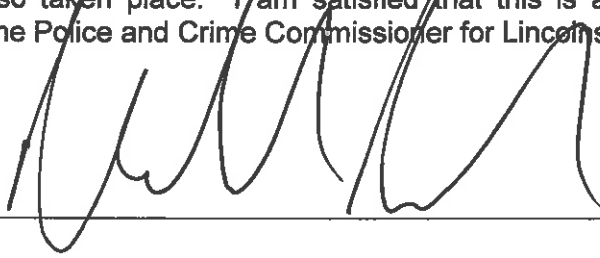
	Initial to confirm
Originating Officer: Scott Dunn recommends this proposal for the reasons outlined above	SSD
The CC's Chief Finance Officer has been consulted on this proposal	se
The Chief Constable has been consulted on this proposal	
The PCC's Chief Finance Officer has been consulted on this proposal	CAF
The PCC's Monitoring Officer has been consulted on this proposal	

## OFFICER APPROVAL

### **Chief Executive**

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. Consultation outlined above has also taken place. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner for Lincolnshire.

**Signature:**



**Date:**

5/10/17

**MEMORANDUM OF UNDERSTANDING**



**THIS MEMORANDUM OF UNDERSTANDING sets out the relationship between the Parties named below and it is entered into on the ..... day of .....2017**

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**HOLMES**

**(or equivalent replacement system)**

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**THE POLICE AND CRIME COMMISSIONER FOR DERBYSHIRE**

**-AND-**

**THE POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE**

**-AND-**

**THE POLICE AND CRIME COMMISSIONER FOR LINCOLNSHIRE**

**-AND-**

**THE POLICE AND CRIME COMMISSIONER FOR NORTHAMPTONSHIRE**

**-AND-**

**THE POLICE AND CRIME COMMISSIONER FOR NOTTINGHAMSHIRE**

**-AND-**

**THE CHIEF CONSTABLE OF DERBYSHIRE CONSTABULARY**

**-AND-**

**THE CHIEF CONSTABLE OF LEICESTERSHIRE POLICE**

**-AND-**

**THE CHIEF CONSTABLE OF LINCOLNSHIRE POLICE**

**-AND-**

**THE CHIEF CONSTABLE OF NORTHAMPTONSHIRE POLICE**

**-AND-**

**THE CHIEF CONSTABLE OF NOTTINGHAMSHIRE POLICE**

**CONTENTS**

1. Introduction and Legal Context ..... 1

2. Definitions and Interpretations ..... 1

3. Governance and Accountability ..... 3

4. The Board..... 3

5. Financial Contribution ..... 4

6. Audit and Inspection ..... 4

7. Human Resources Principles..... 5

8. Chief Officer’s direction and control ..... 5

9. Publicity ..... 5

10. Common Policies and Procedures ..... 5

11. Procurement of Facilities, Equipment and Premises ..... 6

12. Intellectual Property ..... 6

13. Insurance ..... 7

14. Liabilities ..... 7

15. Support and Provision of Additional Services for the Project ..... 8

16. Information Assurance ..... 8

17. Notices ..... 9

18. Review and Variation of Agreement ..... 9

19. Withdrawal and Termination..... 9

20. Consequences of Withdrawal and Termination ..... 9

21. Public Interest Disclosures ..... 11

22. Disputes and Arbitration..... 11

23. Assignment..... 11

24. Illegal/unenforceable Provisions ..... 11

25. Waiver of rights ..... 11

26. Entire Agreement..... 11

27. Third Parties and Successors..... 11

28. Further Assurances..... 12

29. Counterparts ..... 12

30. Governing Law..... 12

SCHEDULE 1 ..... 15

    Funding Principles ..... 15

SCHEDULE 2 ..... 16

    Common Policies..... 16

SCHEDULE 3 ..... 16

    Lead Parties ..... 17

SCHEDULE 4 ..... 18

    Addresses for Service..... 18

## 1. Introduction and Legal Context

- 1.1. The Chief Constables and the PCCs entered into a Memorandum of Understanding in 2014 pursuant to which they agreed to jointly fund the purchase of HOLMES (the “**Original MOU**”).
- 1.2. The original contract for the purchase of HOLMES funded by the Original MOU is due for renewal as it shall expire on 25<sup>th</sup> September 2017.
- 1.3. The Chief Constables and the PCCs have agreed to renew the purchase of HOLMES and wish to enter into an updated Memorandum of Understanding to record this and their commitment to continue to jointly fund HOLMES or any equivalent replacement system on the terms of this memorandum of understanding.
- 1.4. This MOU replaces any earlier agreements or memoranda entered into in respect of the Project (including the Original MOU) and governs the Parties’ continued agreement in relation to the Project. The Parties consider that the continuation of the Project would be in the interests of the efficiency and/or effectiveness of the participating policing bodies and police forces.
- 1.5. The PCCs agree that they shall jointly provide the financial resources required for the Project in accordance with the terms and conditions of this MOU.
- 1.6. The PCC for Nottinghamshire and the Chief Constable for Nottinghamshire agree that they will provide the premises, equipment, staff, services and facilities required for the Project in accordance with the terms and conditions of this MOU.
- 1.7. This MOU shall take effect from the Effective Date and shall continue in force until terminated in accordance with **Clause 19**.

## 2. Definitions and Interpretations

- 2.1. In this MOU except where a different interpretation is clear from, or necessary in the context, the following terms shall have the following meanings:

“Apportionment Ratio”	means the percentage of overall cost, liability or benefit in respect of which each Force is responsible or entitled as set out in the Funding Principles and which is calculated based on the Formula Funding Share for each particular year;
“Board”	means the East Midlands Heads of IT Group meeting;
“Business Day”	means any day other than a Saturday or Sunday or public or bank holiday in England;
“Chief Constable”	means a Chief Constable who is a signatory to this MOU and any successor body;
“Chief Finance Officer”	means (a) in relation to each PCC, the chief finance officer appointed by the PCC under Schedule 1 of the PRSRA and (b) in relation to each Chief Constable, the chief finance officer appointed by the Chief Constable under Schedule 2 of the PRSRA;
“Effective Date”	means the date of signature of this MOU;
“Financial Contribution”	means any cash contribution (to be) made by a Party in accordance with <b>Schedule 1</b> ;
“Force”	means the Chief Constable and the PCC from the same force area;
“Formula Funding Share”	means the proportion of total central grant received by police forces in the East Midlands in each given year, used to calculate the Apportionment Ratio;

"Funding Principles"	means the principles upon which the Parties shall fund the Project as set out in Schedule 1;
"HOLMES"	means the HOLMES system used to: (a) investigate major crimes and complex investigations including fraud, historic child sex abuse cases, stranger rapes; and (b) manage a Casualty Bureau (set up in the event of a disaster where members of the public were injured and deceased) and to record details of casualties, evacuees and survivors;
"Intellectual Property"	means any patents, trade marks, service marks, registered designs, copyrights, database rights, design rights, know-how, confidential information, applications for any of the above, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;
"Lead Party"	means a Chief Constable or PCC providing (or coordinating) support or additional services of a kind specified in accordance with Schedule 3;
"MOU"	means this document, including its Clauses and Schedules, as amended from time to time in accordance with Clause 18;
"Original MOU"	has the meaning set out in Clause 1.1;
"Party" or "Parties"	means a party or the parties to this MOU and shall include the Chief Constables and the PCCs;
"PCC"	means a Police and Crime Commissioner who is a signatory to this MOU and any successor body;
"Project"	means the procurement and funding of HOLMES or any replacement system for HOLMES;
"PRERA"	means the Police Reform and Social Responsibility Act 2011;
"Regulatory Body"	means any government department and regulatory, statutory and other entity, committee, ombudsman and body which, whether under statute, rules, regulations, codes of practice or otherwise, is entitled to regulate, investigate, or influence the matters dealt with in this MOU or any other affairs of the Parties;
"RIAA"	has the meaning set out in Clause 16.1; and
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

2.2. In this MOU unless the context requires otherwise:

- 2.2.1. words importing the singular shall include the plural and vice versa;
- 2.2.2. words importing any particular gender shall include all other genders;
- 2.2.3. references to persons shall include bodies of persons whether corporate or incorporate;
- 2.2.4. words importing the whole shall be treated as including a reference to any part of the whole;



- 2.2.5. any reference in this MOU to any statute or statutory provision shall be construed as referring to that statute or statutory provision as it may from time to time be amended, modified, extended, re-enacted or replaced (whether before or after the date of this MOU) and including all subordinate legislation from time to time made under it;
- 2.2.6. any reference in this MOU to any document, shall be construed as referring to that document as it may from time to time be amended, modified, extended or replaced (whether before or after the date of this MOU);
- 2.2.7. references in this MOU to any Clauses and Schedules are to the Clauses and Schedules to this MOU except where otherwise expressly stated; and
- 2.2.8. headings are used in this MOU for the convenience of the Parties only and shall not be incorporated into this MOU and shall not be deemed to be any indication of the meaning of the Clauses or Schedules to which they relate.

### 3. Governance and Accountability

- 3.1. Each PCC is responsible for securing the maintenance of the police force for its area and ensuring that its police force is efficient and effective.
- 3.2. The PCCs shall, for the purposes of **Clause 3.1**, be responsible for:
  - 3.2.1. the governance of the Project;
  - 3.2.2. holding the relevant Chief Constable to account for the discharge of functions by anyone who:
    - 3.2.2.1. is acting under the terms of this MOU; and
    - 3.2.2.2. while so acting is under the direction and control of that Chief Constable;
  - 3.2.3. monitoring, from a governance perspective, the effectiveness and efficiency of the Project and considering ways in which the functions of the Project could be exercised to improve the effectiveness and efficiency of the Forces;
  - 3.2.4. approving annual estimates of income and expenditure or any request for a change to the allocation of any funding required by the Project (including approving the use of, and contribution to any financial reserves held by the Project or authorising the carrying forward of any under spend at each year-end);
  - 3.2.5. approving the purchase or lease of any facilities, equipment or premises with a value in excess of £20,000 (twenty thousand pounds) in accordance with **Clause 11.3**;
  - 3.2.6. resolving any disputes which may arise in accordance with **Clause 22**; and
  - 3.2.7. requesting, by written notice to the Parties, the periodic review of this MOU at such frequency as they determine necessary.
- 3.3. The Chief Constables shall be responsible for:
  - 3.3.1. resolving any disputes which may arise from an operational perspective in accordance with **Clause 22**; and
  - 3.3.2. reviewing this MOU for the purpose of maintaining a legal framework in which the Project can operate in an efficient and effective manner from a direction and control perspective in accordance with **Clause 18**.
- 3.4. For the purpose of **Clause 3.3**, the Chief Constables may delegate collectively or individually their responsibilities to one or more persons as they may determine in their sole discretion from time to time.

### 4. The Board

- 4.1. The Parties agree that the Project shall be an agenda item at the Board to provide an update on the progress of the Project and any on-going maintenance of HOLMES or any

replacement to HOLMES.

- 4.2. The Board may, where it considers it necessary or desirable, invite any additional individuals to a meeting of the Board to assist it in performing its functions under this MOU.
- 4.3. Save where the matter would fall within the responsibilities of the PCCs, the Chair of the Board may at his sole discretion determine that any decision before the Board in relation to the Project should be determined by the Chief Constables or their nominated delegates.
- 4.4. The Board shall :
  - 4.4.1. provide oversight of the Project's operational performance, partnership arrangements, and finance and human resources; and
  - 4.4.2. ensure the Project's compliance with legal requirements and national standards.

## 5. Financial Contribution

- 5.1. The Parties agree that funding for the Project shall be provided in accordance with the Funding Principles identified by the Parties and set out at Schedule 1.
- 5.2. Each Party shall pay its Financial Contribution to the Lead Party (Finance) for payment into the Project budget on or around 25<sup>th</sup> September each year.
- 5.3. Where any reimbursement of costs and expenses incurred by a Party is claimed, each invoice in respect of the costs and expenses claimed must be accompanied by a statement certified by an authorised officer of that Party.
- 5.4. The Lead Party (Finance) shall ensure appropriate year-end adjustments including accruals are made as soon as possible after each financial year end to enable the Parties to make appropriate adjustment within their own accounts.
- 5.5. The Parties agree that all amounts set out in this MOU are exclusive of VAT (or any similar tax) which, unless any VAT (or similar tax) exemption applies, each Party making a Financial Contribution shall pay at the rate from time to time prescribed by law.
- 5.6. Unless the Parties unanimously agree otherwise in writing, any facilities, equipment or other assets purchased or obtained by the Lead Party (Procurement) or Lead Party (Strategic Estates) on behalf of, or for the benefit of the Project pursuant to Clauses 11.1 to 11.5, shall be held by the relevant Party on trust for all the Parties in the shares determined by the Apportionment Ratio and for the exclusive benefit of the Project.
- 5.7. The financial arrangements for the Project shall be overseen by the Chief Finance Officer of the PCC for the Lead Party (Finance) with scrutiny by the PCCs, the Board and the other Parties' Chief Finance Officers.
- 5.8. No carry forward of under spends or creation of financial reserves shall be allowed without the specific authorisation of the PCCs in accordance with Clause 3.2.4. In the absence of such authorisation any under spend evident at each financial year end shall be redistributed to the Parties in accordance with the Apportionment Ratio.
- 5.9. Following each financial year end, the Chief Finance Officer for the PCC of the Lead Party (Finance) shall provide to each Party, as soon as is reasonably possible, a set of accounts compliant with recommended practice to include:
  - 5.9.1. a comprehensive income and expenditure statement based upon each Party's share of such income and expenditure in accordance with the Funding Principles for consolidation into each Party's own accounts; and
  - 5.9.2. a balance sheet extract based on the capital expenditure incurred by the relevant Lead Parties for and on behalf of the Project detailing each Party's share of assets and liabilities in accordance with the Funding Principles for consolidation into each Party's own accounts.

## 6. Audit and Inspection

- 6.1. The Chief Finance Officer for the PCC of the Lead Party (Finance) shall allow a suitably

qualified independent chartered accountant appointed by any Party, at that Party's expense, to examine the accounts and records of the Project provided:

- 6.1.1. at least fourteen days' written notice is given in advance to the Chief Finance Officer for the PCC of the Lead Party (Finance);
  - 6.1.2. the inspection or examination takes place during normal working hours;
  - 6.1.3. the inspecting Party and the accountant shall keep confidential any information that it may acquire in the exercise of its rights in accordance with this Clause 6.1.
- 6.2. The Lead Party (Finance) shall be responsible for arranging any internal or external audits, inspections and/or arrangements necessary to accommodate any audit and/or inspection required by a Regulatory Body.
- 6.3. The costs of any external audit in accordance with this Clause 6 shall be shared between the Forces in accordance with the Apportionment Ratio.

## 7. Human Resources Principles

- 7.1. The Parties individual obligations under the terms of this MOU will be fulfilled by their own staff and officers and these arrangements will not involve the provision by one Party to another Party of any of its staff or officers.
- 7.2. Each Party shall therefore be responsible for their own employees and police officers engaged in the performance of this MOU. Each Party shall comply with their respective obligations as employers with regard to employment law rights (including pensions) in respect of its employees.
- 7.3. Accordingly, the Parties do not consider that there are any affected employees such that TUPE will apply to this MOU or the Project and the Parties therefore agree that each Party is responsible for any salary, redundancy or other employment-related costs or liabilities which arise in respect of its own employees.

## 8. Chief Officer's direction and control

- 8.1. The Chief Constables shall retain direction and control of their respective officers and staff members who are deployed on duties, functions or support services on behalf of the Project.
- 8.2. For the avoidance of doubt, this Clause 8 may be amended following review by the Parties in accordance with Clause 18 and any such amendment shall not constitute a material variation for the purpose of Clause 18.2.

## 9. Publicity

- 9.1. No Party shall take any step to publicise the existence of this MOU or any operation or investigation undertaken by the Project without the consent of the other Parties.
- 9.2. No Party shall issue any press release or other public document, or make any public statement, containing or otherwise disclose to any person who is not a Party, information which relates to or is connected with or arises out of this MOU or the matters contained in it, without the prior written approval of the other Parties. The Parties shall in any event consult together upon the form of any such press release, document, or statement as and when such releases are required.
- 9.3. For the avoidance of doubt nothing in this Clause 9 is intended to restrict any Party's statutory obligations to publicise the existence of this MOU whether under the Elected Local Policing Bodies (Specified Information) Order 2011, section 23E of the Police Act 1996 or any other legislation.

## 10. Common Policies and Procedures

- 10.1. The Parties agree that financial compliance of the Project shall operate under the financial procedures of the Lead Party (Finance).
- 10.2. Where the Parties have agreed to adopt common policies and standard operating procedures these are set out at Schedule 2 and the subsequent adoption by the Parties of

any common policy or standard operating procedure shall not amount to a material variation for the purpose of **Clause 18.2**.

- 10.3. The Parties agree that where common policies and standard operating procedures are not in existence at the time of entering into this MOU, they shall explore any opportunities to develop and adopt policies and standard operating procedures in respect of working practices in the Project.
- 10.4. Unless required otherwise by law (eg for employment or discipline purposes), in the absence of an agreed common policy or procedure, the Project officers and staff shall comply with the policies and/or procedures adopted by the relevant Lead Party and, where there is no Lead Party, with that adopted by their home Force.

#### 11. Procurement of Facilities, Equipment and Premises

- 11.1. The Parties agree that the Lead Party (Procurement) may, and hereby authorise the Lead Party (Procurement) to, enter into an agreement for the purchase of HOLMES on behalf of all participating Forces provided that the value of that agreement shall not exceed the identified costs set out in the Funding Principles.
- 11.2. The Parties agree that the Lead Party (Strategic Estates) or the Lead Party (Procurement) may, as necessary for the Project, purchase or lease facilities, equipment or premises for the Project, up to a value of £20,000 (twenty thousand pounds) per purchase or conveyance, provided that the Board is notified by the relevant Lead Party of any such purchase or conveyance at the next Board meeting.
- 11.3. The Parties agree that for facilities, equipment or premises with a value in excess of £20,000 (twenty thousand pounds) the Lead Party (Strategic Estates) or Lead Party (Procurement) may only purchase or lease facilities, equipment or premises for the Project if this has been approved by the PCCs in accordance with **Clause 3.2.5**.
- 11.4. The Parties agree that the Lead Party (Strategic Estates) or Lead Party (Procurement) shall hold any facilities, equipment or premises purchased or leased in accordance with **Clause 11.1** or **Clause 11.2** or **Clause 11.3** on trust for and on behalf of the Parties in accordance with **Clause 5.6**. In the event that this MOU is terminated any facilities, equipment or premises held by the Lead Party (Strategic Estates) or Lead Party (Procurement) in accordance with **Clause 5.6** shall be treated as assets or liabilities of the Project and dealt with in accordance with **Clause 20**.
- 11.5. In purchasing or leasing facilities, premises and/or equipment for the Project the Lead Party (Procurement) or the Lead Party (Strategic Estates) (as appropriate) shall use its best endeavours to ensure that any contract which it enters into on behalf of and for the benefit of the Project is capable of novation or assignment to enable the smooth transition of responsibility to a new Lead Party (Procurement) or new Lead Party (Strategic Estates) should the need arise.
- 11.6. For the avoidance of doubt, **Clause 11.2** and **Clause 11.3** may be amended following review by the Parties in accordance with **Clause 18** and any such amendment shall not constitute a material variation for the purpose of **Clause 18.2**.

#### 12. Intellectual Property

- 12.1. The Parties agree that any Intellectual Property created prior to the effective date of the Original MOU ("**Background IPR**") shall remain the property of the Party which created it and may be used by the other Parties for the purposes of the Project.
- 12.2. Any Intellectual Property in any product, services or deliverable created by or in relation to the Project from the effective date of the Original MOU and/or during the term of this MOU shall be jointly owned by the Parties.
- 12.3. Each Party hereby grants to the other Parties a non-exclusive, royalty-free licence to use, copy, modify, adapt, publish, create derivative works from, sub-licence, sell, rent, lease, transfer and commercially exploit:

12.3.1. that Party's Background IPR to the extent it is incorporated in any product, service or deliverable created by the Project; and

12.3.2. all the Intellectual Property in any product, service or deliverable created by the Project

for any purpose in connection with the Project.

### 13. Insurance

13.1. The Parties agree that they shall not obtain joint insurance cover for the Project.

13.2. Each Party shall individually obtain, arrange and ensure that they maintain an adequate level of insurance including but not limited to employer's liability, public liability, and professional negligence insurance to cover any losses, claims, damages, costs, charges, expenses, liabilities, or demands incurred or brought as a result of the actions, omissions or operations of that Party and/or any of the officers, staff, agents and/or contractors under its direction and control and/or acting in the performance or purported performance of their duties which arise out of their participation in the Project as a consequence of this MOU.

13.3. Each Party shall notify its insurer or prospective insurer that it wishes to hold harmless the other Parties and/or their respective insurers in respect of the negligence or tortious act or omission of officers, staff, agents and/or contractors under its direction and control and shall require that the insurer likewise hold harmless the other Parties and/or their respective insurers in such circumstances.

13.4. Each Party shall notify its insurers or prospective insurers of the existence of the Project and provide sufficient disclosure to allow for an insurance policy to be obtained or amended in accordance with Clause 13.2.

13.5. Each Party shall adhere to the terms and conditions of its insurance policy(ies) obtained or amended in accordance with Clause 13.2.

13.6. Each Party shall bear its own costs in obtaining, amending and maintaining its insurance policy(ies) in accordance with Clause 13.2.

13.7. Where the Parties have purchased assets on behalf of the Project in accordance with Clauses 11.1 to 11.5 the supplying Party shall ensure that appropriate insurance cover is in place to allow for the use of such assets by

13.7.1. any relevant third party receiving goods or services from the Project; and

13.7.2. all relevant officers and staff of the Project regardless of the Force to which they belong.

13.8. The Lead Party (Insurance) shall not be responsible for obtaining or arranging appropriate insurance cover on behalf of the supplying Parties but shall coordinate with the supplying Parties a review of the relevant insurance certificates to ensure that the insurance cover available is adequate for the needs of the Project.

13.9. If any Party has any concerns about the adequacy of any insurance policies obtained pursuant to Clause 13.2 or Clause 13.7, it shall refer those concerns to the Board. The Board shall be responsible for ensuring that any concerns that cannot be rectified are brought to the attention of the Chief Constables and the PCCs.

### 14. Liabilities

14.1. The Parties hereby acknowledge that, as the Project is not a legal entity in its own right, liability cannot therefore attach to it and the Lead Parties and/ or any employing Party (or Chief Constable with direction and control pursuant to Clause 8) shall be legally responsible and accountable on behalf of the Project and its officers and staff.

14.2. Subject to Clause 14.4.2, where any loss, claim, cost, liability or expense ("Liability") incurred by a Party is or should (in accordance with Clause 13.2 or Clause 13.7) be covered by an individual Party's policy of insurance, the Parties agree that such Liability shall be paid by the individual Party named as policy holder and that any excess payable

under such policy or any uninsured element of the Liability may be reimbursed from the Project budget unless:

- 14.2.1. the Parties have agreed otherwise in writing; or
  - 14.2.2. a Party has suffered or incurred the Liability through the act or omission of another Party in circumstances such that it would be inequitable for the policy holder to remain solely responsible for such Liability (and/or excess payable) and in which circumstances the Parties agree that they shall negotiate between themselves in good faith regarding the contribution to or reimbursement of any such Liability (and/or excess payable).
- 14.3. Each Party shall:
- 14.3.1. promptly notify the Lead Party (Legal Services) of the details of any claim from a third party relating to the Project of which it is aware;
  - 14.3.2. not make any admission in relation to the claim;
  - 14.3.3. allow the Lead Party (Legal Services) to have the conduct of the defence or settlement of the claim; and
  - 14.3.4. give the Lead Party (Legal Services) all reasonable assistance in dealing with the claim.
- 14.4. For the avoidance of doubt, the provisions of this Clause 14:
- 14.4.1. relate to liabilities arising as a consequence of this MOU and do not extend to any claims received by the Parties in relation to matters beyond the scope of the Project or arising in relation to a matter pre-dating the date of the Original MOU; and
  - 14.4.2. are not intended to curtail or prevent a Party's insurers from seeking to recover any outlay against any of the Parties save where the individual Party has failed to arrange a policy of insurance in accordance with Clause 13.2 or Clause 13.7. In cases where an individual Party has failed to arrange a policy of insurance in accordance with Clause 13.2 or Clause 13.7, the individual Party agrees to indemnify each and every other Party for any losses, claims, damages, costs, charges, expenses, liabilities, or demands that another Party may be required to meet as a consequence of the failure of the individual Party to arrange a policy of insurance in accordance with Clause 13.2 or Clause 13.7.
- 14.5. The provisions of this Clause 14 shall remain in force notwithstanding the termination of this MOU.

#### 15. Support and Provision of Additional Services for the Project

- 15.1. The Parties agree that the Lead Parties shall provide and/or coordinate support and the provision of additional services for the Project as identified by the Parties and as set out in Schedule 3. The Parties recognise that a reference to a Lead Party is provided to aid the Parties in having a recognised point of contact in the areas of additional service that have been identified in Schedule 3. The Parties acknowledge that there may be occasions where the identified Lead Party may advise that it may be more appropriate for another Party to provide the additional services and request that they do so. In such circumstances, the Party identified by the Lead Party shall consider such requests in good faith.
- 15.2. A Lead Party may render a reasonable charge in respect of providing any additional services in accordance with Clause 15.1.

#### 16. Information Assurance including Freedom of Information, Confidentiality, Data Protection, Data Security and Risk Management

- 16.1. The Parties (along with other chief constables and police and crime commissioners) entered into a separate agreement (the "RIAA") on 13<sup>th</sup> May 2015 setting out the basis on which the Parties may share, access and store information belonging to each other.
- 16.2. The Parties agree that, whilst the Parties may share data in accordance with other

collaboration agreements or information sharing agreements (or for a policing purpose) in relation to each Force's use of HOLMES, the Project itself shall not involve the sharing or processing of any data. As such, it is agreed that no Appendix (as defined in the RIAA) is required for the Project or this MOU.

16.3. The Parties shall comply with their respective obligations as set out in Schedule 5 of the RIAA (Information Management).

#### 17. Notices

17.1. Any notice to be given under this MOU must be in writing, may be delivered to the other Party or Parties by any of the methods set out in the left hand column below and shall be deemed to be received on the corresponding day set out in the right hand column below.

<b>Method of service</b>	<b>Deemed day of receipt</b>
By hand or courier	the day of delivery
By pre-paid first class post	the second Business Day after posting
By recorded delivery post	the next Business Day after posting
By fax (provided the sender's fax machine confirms complete and error-free transmission of that notice to the correct fax number)	the next Business Day after sending or, if sent before 16.00, on the Business Day it was sent
By email (provided the recipient confirms complete and error-free transmission of that notice to the correct email address)	the next Business Day after sending or, if sent before 16.00, on the Business Day it was sent

17.2. The Parties' respective representatives for the receipt of notices are the Chief Constable of each Force and the PCC for each policing area and the addresses for service are set out in **Schedule 4**.

17.3. Any Party may change its representatives for the receipt of notices and/or its address for service by serving a notice to the other Parties in accordance with this **Clause 17**.

#### 18. Review and Variation of this MOU

18.1. The Parties may review this MOU on an annual basis and may make any amendments necessary by agreement in writing subject to **Clause 18.2**.

18.2. A variation agreed by the Parties which amounts to a material variation shall constitute the termination of this MOU and give rise to the requirement for a new memorandum of understanding.

#### 19. Withdrawal and Termination

19.1. The Parties agree that this MOU may be terminated at any time by the majority agreement of the Parties.

19.2. The Parties acknowledge that the nature of the Project is such that there is a significant inter-dependency between the obligations of the PCCs and those of the Chief Constables under this MOU. Accordingly, the Parties agree that:

19.2.1. If a Chief Constable or PCC wishes to withdraw from this MOU then their respective PCC or Chief Constable (as applicable) shall also withdraw from this MOU;

19.2.2. if a Chief Constable and PCC wish to withdraw from this MOU pursuant to **Clause 19.2.1** they may withdraw by giving not less than twelve months' written notice to the Board and to the Chief Constables and the PCCs of the other Forces.

#### 20. Consequences of Withdrawal and Termination

20.1. If any Force withdraws from this MOU in accordance with **Clause 19.2** then in recognition of the potential administrative and financial repercussions for the other Forces, each of the withdrawing Parties shall:

- 20.1.1. use its best endeavours to arrange for any assets held by it for or on behalf of the Project to be transferred to a Party nominated by the Board who shall hold the assets for or on behalf of the Project;
  - 20.1.2. waive any entitlement or claim to any assets held by any Party for and on behalf of the Project or transferred by them to any Party to hold for and on behalf of the Project;
  - 20.1.3. continue to be liable for all Financial Contributions and Resource Contributions due from it in respect of the period expiring on the 31st March following the expiry of the said twelve months' notice; and
  - 20.1.4. indemnify the other Parties against all costs, claims, losses, expenses or liabilities (including any redundancy costs) to the extent arising from, or as a consequence of any act, event or omission of the withdrawing Party occurring before the expiry of the notice of their withdrawal from this MOU.
- 20.2. If this MOU is terminated in accordance with **Clause 19.1** and it is not replaced within three months by a new agreement between the Parties to discharge the functions of the Project:
  - 20.2.1. the Parties shall cause any assets and liabilities of the Project to be wound up. Any surplus monies after payment of any creditors or liabilities shall be divided in accordance with any Funding Conditions and thereafter between the Parties in accordance with the Apportionment Ratio and in the event of any deficiency the Parties shall bear the deficiency in the same proportion;
  - 20.2.2. the Parties shall use their best endeavours to cooperate and provide mutual support to each other on any matter relating to the termination of this MOU and/or the winding up of the Project;
  - 20.2.3. the Parties shall take all steps to promptly dispose of any property, equipment, vehicles and assets held by the Lead Party (Procurement) or Lead Party (Strategic Estates) on behalf of the Project using all reasonable endeavours to obtain market value provided that each Party shall have the right exercisable within twenty eight days of termination of this MOU to purchase any of the assets of the Project (including property, chattels, equipment, vehicles etc) at their market value at the date of such termination;
  - 20.2.4. each Party shall be responsible for consulting with those of its staff (who have been engaged in performing services for the Project) on any possible consequences that may arise pursuant to the termination of this MOU;
  - 20.2.5. any Intellectual Property developed by the Parties in connection with the Project shall continue to be vested in the Parties jointly and the licence granted under **Clause 12.3** shall continue in perpetuity.
- 20.3. If more than one Party exercises the right under **Clause 20.2.3** to purchase any asset each Party shall have the right within fourteen days after expiration of the time limit of twenty eight days set out in **Clause 20.2.3** to deposit (at a place nominated by the PCCs and addressed to a person nominated by the PCCs for this purpose) a sealed bid for the item for which the respective Party shall unconditionally offer to purchase such item at the price stated in the bid. The Party which deposits the bid naming the highest price shall become entitled to purchase the relevant asset. The Parties agree that the completion of such purchase, and payment of the purchase monies, is to take place within twenty eight days of notification to the successful bidder.
- 20.4. In the event that any assets to be purchased pursuant to **Clause 20.3** are the subject of contractual arrangements with any third party, the Lead Party (Procurement) or the Lead Party (Strategic Estates) (whichever has entered into such contractual arrangements with the third party on behalf of the Project) shall notify the purchasing Party of such contractual arrangements and shall seek the agreement of that third party to the transfer of all rights and obligations to the purchasing Party.



20.5. In the event that the rights and obligations referred to in Clause 20.4 cannot be transferred to a purchasing Party, that purchasing Party shall indemnify the relevant Lead Party from and against all costs, claims, losses, expenses or liabilities arising from or as a consequence of any act, event or omission of the purchasing Party which occurs after the date of purchase and which constitutes a breach of such obligation. For the avoidance of doubt, this indemnity shall not extend to any obligation not notified to the purchasing Party.

#### 21. Public Interest Disclosures

21.1. The Parties acknowledge and agree that for the purposes of the legal protection against victimisation and dismissal provided for individuals under the Public Interest Disclosure Act 1998 ("PIDA") who disclose information so as to expose malpractice and matters of similar concern (known as "whistle blowers"), police officers and police staff providing any support in connection with the Project shall be entitled to report such "whistle blowing" matters back to their home Force and it is their home Force who shall be obliged in such circumstances to give legal protection pursuant to PIDA.

#### 22. Disputes and Arbitration

22.1. Any dispute between the Parties arising out of or in connection with this MOU or its dissolution shall in the first instance be referred to a meeting of the Chief Constables and the PCCs for discussion and attempt to resolve the matter. If the dispute is not resolved at that meeting the dispute shall be referred to a single arbitrator to be agreed upon by the Parties or in default of agreement to be nominated by the President for the time being of the Chartered Institute of Arbitrators in accordance with the Arbitration Act 1996.

22.2. Nothing in Clause 22.1 shall restrict, at any time while any dispute resolution procedure is in progress or before it is evoked, the freedom of any Party to commence legal proceedings to preserve a legal right or remedy pending the outcome of the dispute.

#### 23. Assignment

23.1. Except by statutory enactment, none of the Parties may assign or transfer this MOU as a whole, or any of its rights or obligations under it, without first obtaining the written consent of all of the other Parties. That consent may not be unreasonably withheld or delayed.

#### 24. Illegal/unenforceable Provisions

24.1. If the whole or any part of any provision of this MOU is void or unenforceable, the other provisions of this MOU, and the rest of the void or unenforceable provision, shall continue in force.

#### 25. Waiver of rights

25.1. 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 MOU, that failure or delay shall 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 MOU shall not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.

#### 26. Entire Agreement

26.1. This MOU constitutes the entire agreement between the Parties relating to its subject matter. Each Party acknowledges that it has not entered into this MOU on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this MOU. Each Party waives any claim for breach of this MOU, or any right to rescind this MOU in respect of any representation which is not an express provision of this MOU. However, this Clause 26 does not exclude any liability which any Party may have to any other (or any right which any Party may have to rescind this MOU) in respect of any fraudulent misrepresentation or fraudulent concealment prior to the execution of this MOU.

#### 27. Third Parties and Successors

27.1. Except as otherwise provided by the Police Act 1996 or other statutory enactment, no one except a Party has any right to prevent the amendment of this MOU or its termination, and

**no one except a Party may enforce this MOU.**

- 27.2. Any change in the legal status of any Party such that it ceases to be a legal entity for the purpose of this MOU shall not affect the validity of this MOU. In such circumstances, this MOU shall bind and inure to the benefit of any successor body to that Party.
- 27.3. The Parties agree that should any amendment to this MOU be required in order to ensure this MOU's compliance with any statute or statutory instrument such amendment shall be made as required and shall not constitute a material variation for the purpose of **Clause 18.2.**

**28. Further Assurances**

- 28.1. Each Party shall, at the reasonable request of any other Party, take such action (including the execution of any document) and provide all reasonable support and assistance, which may be necessary to give effect to this MOU or any of the rights created by this MOU.

**29. Counterparts**

- 29.1. This MOU may be executed in any number of counterparts, each of which, when signed shall be an original, and all the counterparts together shall constitute one and the same instrument.

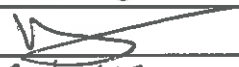
**30. Governing Law**

- 30.1. This MOU, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes and claims), shall be governed by, and construed in accordance with, English law and the Parties irrevocably agree that, subject to **Clause 22**, the English Courts shall have exclusive jurisdiction to deal with any such dispute or claim.

IN WITNESS whereof the Chief Constables have signed below on the date indicated:

Name:	
Signature:	
Date:	
Force:	Derbyshire Constabulary

Name:	
Signature:	
Date:	
Force:	Leicestershire Police

Name:	Binu Skew
Signature:	
Date:	20/9/17
Force:	Lincolnshire Police


Name:	
Signature:	
Date:	
Force:	Northamptonshire Police

Name:	
Signature:	
Date:	
Force:	Nottinghamshire Police

**IN WITNESS** whereof the PCCs have signed below on the date indicated:

Name:	
Signature:	
Date:	
Party:	The Police and Crime Commissioner for Derbyshire

Name:	
Signature:	
Date:	
Party:	The Police and Crime Commissioner for Leicestershire

Name:	W. MARC JONES
Signature:	
Date:	5/10/17
Party:	The Police and Crime Commissioner for Lincolnshire

Name:	
Signature:	
Date:	
Party:	The Police and Crime Commissioner for Northamptonshire

Name:	
Signature:	
Date:	
Party:	The Police and Crime Commissioner for Nottinghamshire

**SCHEDULE 1**  
**Funding Principles**

**1. Funding Principles**

- 1.1.** The identified costs of the Project are the procurement of the HOLMES system in the sum of £175,730 per annum together with the costs of any replacement system for HOLMES which the Parties agree shall be procured for the benefit of the Parties in accordance to the provisions of **Clauses 11.1 to 11.5**; these costs shall be shared between the PCCs in accordance with the Apportionment Ratio.
- 1.2.** The Parties agree that all other costs of the Project and/or use of HOLMES (or any replacement system) shall be a cost payable by each PCC for its home Force (whether used directly or in connection with any collaborative unit) and shall not be a shared cost of the Project.

**2. Financial Contributions**

- 2.1.** The Formula Funding Share applicable in each year shall be used to calculate the Apportionment Ratio for that year.
- 2.2.** The default position for cost allocation shall be the Formula Funding Share in place at the relevant time.
- 2.3.** The Parties agree that the Apportionment Ratio and split of the identified costs of the Project for the financial year 2017/18 are as set out below:

Derbyshire	21.80% (£38,309)
Leicestershire	22.90% (£40,242)
Lincolnshire	13.20% (£23,196)
Northamptonshire	14.80% (£26,006)
Nottinghamshire	27.30% (£47,974)

**3. Other contributions from the Parties**

- 3.1.** This includes all non-financial contributions made by a Chief Constable or PCC to the Project. It shall include the ad hoc provision of staff time (HR, Strategic Estates, IS, procurement, legal etc) which does not form part of the budgeted staff costs set out above.
- 3.2.** For the avoidance of doubt, unless otherwise agreed in writing by the Parties non-financial contributions shall be provided at no cost to the Project and the Parties agree that they shall not deduct the cost of any provision, maintenance, repair or replacement of such from their Financial Contribution to the Project.
- 3.3.** Unless a Party supplying any other additional services in accordance with **Clause 15.1** seeks to render a reasonable charge for such in accordance with **Clause 15.2**, additional services shall be supplied at no cost.

**SCHEDULE 2**  
**Common Policies**

None

### **SCHEDULE 3**

#### **Lead Parties**

1. Finance	Nottinghamshire
2. Insurance	Nottinghamshire
3. Information Support	Nottinghamshire
4. Human Resources	Nottinghamshire
5. Legal Services	East Midlands Police Legal Services (EMPLS)
6. Strategic Estates	Nottinghamshire
7. Property Storage	Nottinghamshire
8. Procurement	EMSCU
9. Audits	Nottinghamshire
10. Risk Management/Health and Safety	Nottinghamshire
11. Information Management	Nottinghamshire

A reference to Derbyshire, Lincolnshire, Leicestershire, Northamptonshire, or Nottinghamshire shall be construed as being a reference to the PCC and/or Chief Constable as the context may require.

The Board may invite assistance from another PCC or Chief Constable where it is deemed reasonable or proportionate to do so.

The Parties shall also draw upon the assistance of established collaborations such as EMPLS or EMSCU. It is recognised that these collaborations are not legal entities in their own right but for the sake of simplicity where there is an expectation that a collaboration shall take the lead in providing services in a particular area that collaboration has been identified with the expectation that any issues that may arise shall be resolved by dialogue with the Board of that collaboration.

**SCHEDULE 4**  
**Addresses for Service**

**The Police and Crime Commissioner for Derbyshire**, Police Headquarters, Butterley Hall, Ripley, Derbyshire, DE5 3RS

**The Police and Crime Commissioner for Leicestershire**, St John's Enderby Leicestershire LE19 2BX

**The Police and Crime Commissioner for Lincolnshire**, Police Headquarters, Deepdale Lane, Nettleham, Lincoln, Lincolnshire, LN2 2LT

**The Police and Crime Commissioner for Northamptonshire**, Wootton Hall, Northampton, NN4 0JQ

**The Police and Crime Commissioner for Nottinghamshire**, Arnot Hill House, Arnot Hill Park, Arnold, Nottingham, NG5 6LU

**The Chief Constable of Derbyshire Constabulary**, Police Headquarters, Butterley Hall, Ripley, Derbyshire, DE5 3RS

**The Chief Constable of Leicestershire Police**, Force Headquarters, St Johns, Enderby, Leicester, LE19 2BX

**The Chief Constable of Lincolnshire Police**, Police Headquarters, Deepdale Lane, Nettleham, Lincoln, Lincolnshire, LN2 2LT

**The Chief Constable of Northamptonshire Police**, Wootton Hall, Northampton, NN4 0JQ

**The Chief Constable of Nottinghamshire Police**, Force Headquarters, Sherwood Lodge, Arnold, Nottingham, NG5 8PP