

**DATED**

**2021**

**GRAVESHAM BOROUGH COUNCIL**

**and**

**MEDWAY COUNCIL**

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**MEMORANDUM OF AGREEMENT FOR THE**

**CCTV PARTNERSHIP**

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**THIS AGREEMENT** is made the      day of                      2021

**BETWEEN**

**(1) GRAVESHAM BOROUGH COUNCIL** of Civic Centre, Windmill Street, Gravesend, Kent DA12

1AU (“Gravesham”) and

**(2) MEDWAY COUNCIL** of Gun Wharf, Dock Road, Chatham, Kent ME4 4TR (“Medway”)

(and the parties are hereinafter referred to collectively as “the Councils”)

**1. Definitions and Interpretations**

**1.1.** In this memorandum of Agreement and appendices and annexes to it the following terms

shall unless the context otherwise requires have the following meaning:-

“the Additional Authority”                      means a local authority applying to join the CCTV Partnership as described in **clause 3.22**

“the Agreed Proportions”                      means the basis of cost distribution for the management Costs between the Councils described in **clause 3.12 and Appendix 5**

“the Asset Register”                              means the register of accommodation and equipment set out in **Appendix 4**

“Budgetary Contributions”                      means the Councils’ annual budgetary contributions to the costs of the CCTV Partnership

“CCTV Functions”                                means the Councils’ functions under s163 Criminal Justice and Public Order Act 1994 and all the other statutory powers enabling the provision of the CCTV Services as set out in **Appendix 3**

“the CCTV Partnership”	means the Councils operating together through the Partnership Board and in accordance with this Memorandum of Agreement for the delivery and management of the shared CCTV services
“CCTV Services”	means the services described in <b>Appendix 1</b>
“The code of practice”	means operating regulations and guidance laid by the Surveillance Camera Commissioner
“Commencement”	means 01 April 2021
“Confidential Information”	<p>shall mean any information which has been designated as confidential by any party to this Agreement in writing to the other parties or which ought to be considered as confidential and all personal data and sensitive personal data within the meaning of the Data Protection Act 2018. Confidential Information shall not include information which:</p> <ul style="list-style-type: none"><li>(a) was public knowledge at the time of disclosure (otherwise than by breach of this Agreement;</li><li>(b) was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;</li><li>(c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or</li><li>(d) is independently developed without access to the Confidential Information</li><li>(e) is required by law to be accessible to the public</li></ul>

“the Councils”	subject to clause 3.22, means Medway and Gravesham and “Council” shall mean any one of them
“the Data”	means information that is subject to the Data Protection Act 2018 together with information that Medway has acquired on behalf of the CCTV Partnership for the purposes of the provision of the CCTV Services
“the Exit Arrangements”	means the arrangements referred to in <b>clause 3.21</b>
“the Facilities”	means the accommodation provided by Medway Council for the operation of the CCTV Services and the provision of utilities thereto
“Head of the CCTV Partnership”	Means the Head of the CCTV Partnership appointed in accordance with <b>clause 3.4</b>
“the Information Legislation”	Means the Data Protection Act 2018, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004
“the Management Costs”	Means the cost of employing in the Management Staff plus and Shared Costs allocated to the Management staff as set out in <b>Appendix 5</b>
“the Management Staff”	Means the employees managing the CCTV Services and such other management staff as may be agreed by the Partnership Board having regard to the number of Operational Staff within the CCTV Partnership
“the Operational Costs”	Means the costs of employing the operational Staff plus any Shared Costs allocated to the Operation Staff as set out in <b>Appendix 5</b>
“the Partnering Advisor”	Means a person having expertise in dispute resolution or mediation nominated by a Council for the purposes of <b>clause 3.23.1</b> and accepted by all the Councils to act in that capacity
“the Partnership Board”	Means the Board overseeing the CCTV Partnership whose membership, Terms of Reference and proceedings shall be as set out in <b>Appendix 2</b>

“Replacement Equipment Fund”	Means the fund held by Medway forming those parts of the Budgetary Contributions identified by each Council as being allocated to replacing equipment in the manner set out in <b>clause 3.6.6</b>
“the Shared Costs”	Means the costs to the Councils of the Management Staff, the Support Services and the Facilities
“the Staff”	Means the Management Staff and the Operation Staff and replacement or additional staff employed during the operation of the CCTV Partnership
“the Support Services”	Means IT services, legal services, human resources and pay roll services and financial, accountancy, insurance and audit provided by Medway to the CCTV Partnership and described in <b>clause 3.5</b>
“the Term”	Means the period commencing on 1 <sup>st</sup> April 2021 and terminating on 1 <sup>st</sup> April 2024 or as extended by agreement of the Councils
“the Terms of Reference”	The terms of reference of the Partnership Board set out in <b>Appendix 2</b>
“the TUPE Regulations”	Means the Transfer of Undertakings (Protection of Employment) Regulations 2006

1.2 In this Agreement unless otherwise stated or the context otherwise requires:-

- 1.2.1 any reference to clause number, paragraph number or Appendix means a clause, paragraph or Appendix to this Memorandum of Agreement
- 1.2.2 the headings are included for convenience only and shall not affect the interpretation of this Agreement
- 1.2.3 the singular includes the plural and vice versa
- 1.2.4 a gender includes any other gender
- 1.2.5 a reference to a statute, statutory instrument or other sub-ordinate legislation (“legislation”) is a reference to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification

**2. Preamble**

- 2.1.** Each of the Councils is a local authority which has the power to provide and maintain closed-circuit television in accordance with the Criminal Justice and Public Order Act 1994
- 2.2.** The Councils have agreed to establish a contracting arrangement to provide the CCTV Services across their respective administrative areas
- 2.3.** In pursuance of their intention to establish a contracting arrangement the Councils:-
- 2.3.1. Have agreed that their respective CCTV Functions shall be undertaken in accordance with the terms of this Memorandum of Agreement and
- 2.3.2. Now enter into this Memorandum of Agreement for the Term with extension periods at the discretion and agreement of the Councils
- 2.4.** It is the intention of the parties that the arrangements set out in this Memorandum of Agreement will enable the councils to provide the CCTV Services in a cost effective manner and that no party to this Memorandum will make a profit from the arrangements (provided that **(subject to clause 3.13.5)** this shall not prevent Medway from retaining a surplus in any one year on behalf of the CCTV Partnership which shall be used solely for CCTV Partnership costs in future years)

**3. IT IS HEREBY AGREED** as follows:-

**3.1. The CCTV Partnership**

In exercise of their powers under the Criminal Justice and Public Order Act 1994, section 111 of the Local Government Act 1972 and s1 of the Localism Act 2011 and all other powers enabling them in that behalf the Councils agree to establish and participate in the CCTV Partnership in accordance with the terms of this Memorandum of Agreement which may be amended with the written agreement of each of the councils

**3.2. The Host Council**

The Councils agree that Medway are acting on behalf of Medway and Gravesham and acting into a contract on behalf of both, in so far as it will have responsibility for provision

of the Staff and a principal office, the procurement of goods and services and the other responsibilities outlined in this Agreement

### **3.3. Staff**

3.3.1. For the period of this Agreement Medway shall provide the Staff

3.3.2. At the end of the Term or in the event of the withdrawal of a Council during the Term or in the event of termination of the CCTV Partnership by agreement the transfer of relevant Staff to the Councils or to the withdrawing council shall be subject to the TUPE regulations

3.3.3. From the end of the Initial Period the Councils shall contribute to the cost of the employment of the Staff in accordance with the principles set out in Appendix 6 which costs shall include (to the extent that they apply) salaries, national insurance, superannuation (including the costs arising from early retirements), travelling and subsistence expenses, car allowances, recruitments and retention allowances and the associated payroll administration

3.3.4. Subject to **clause 3.3.6 and 3.16**, the Councils shall be responsible for and shall indemnify Medway in the following proportions against any losses, payments, costs, compensation, demands or actions arising in connection with or as a result of any claim or demand by or liability to any of the Staff (which Medway shall take all reasonable steps to mitigate) and arising out of the employment of or termination of the employment of any of the Staff (including but without prejudice to the generality thereof any claim for unfair dismissal, wrongful dismissal, a redundancy payment (including enhanced payments), breach of contract, unlawful deduction from wages, unlawful discrimination or to have years added to the pension entitlement)

3.3.4.1. Where the liability arises in respect of any Management staff the liability for the costs referred to in this clause shall be shared in the Agreed Proportions between the Councils

3.3.4.2. Where the liability for costs referred to in this clause arises in respect of any Operational Staff the proportion of a council's liability will be calculated by dividing the number of Operational Staff allocated to that Council at the date on which the action/omission occurs which gives rise to the liability by the total number of Operation Staff at that date

3.3.5. Upon the termination of this Agreement for whatever reason (except in the case of establishment of a limited company) if fewer Staff are required to carry out the CCTV Functions of the Councils the Councils shall agree a method of selection for redundancy and early retirements (including costs arising prior to or immediately after a transfer of Staff under the TUPE Regulations) shall be borne by the Councils in the proportions set out in **clause 3.3.4**

3.3.6. Where any Council withdraws from this Agreement in accordance with the clause **3.19** and as a result fewer staff are required to carry out the CCTV Functions of the CCTV Partnership the withdrawing Council shall be responsible for the costs of redundancy of any Staff who are as a result made redundant

#### **3.4. Head of the CCTV Partnership**

Throughout the Term the Assistant Director responsible for the delivery of CCTV for Medway shall be appointed by Medway as the Head of the CCTV Partnership responsible for the day to day management of the CCTV Services and for the responsibilities given to him/her in this Memorandum of Agreement

#### **3.5. Support Services and Facilities**

3.5.1. Support Services and Facilities for the CCTV Partnership shall be provided by Medway to the CCTV Partnership as described in **clause 3.5.2** below

3.5.2. For the avoidance of doubt Support Services shall be deemed to include:-

- Legal services to be provided by Medway

- Financial services including accountancy internal audit and insurance services to be provided by Medway (and insurance to be procured by Medway)
- Human resources and payroll to be provided by Medway
- Information and communication technology to be provided by Medway and  
Facilities shall include:-
- Accommodation within Medway's CCTV Control room and utilities thereto to be provided by Medway

3.5.3 On or before 1 April 2021 to authorise Medway to enter into an annual service level agreement for each of the Support Services

3.5.4 The Councils may vary the terms of the service level agreements year on year

3.5.5 If a service level agreement has not been agreed by 31 March 2021 the charges for Medway's employees' time carrying out the relevant Support Service work shall be at no more than their hourly rates from time to time including cost of salary, on costs and overhead expenses

3.5.6 Any costs relating to the Facilities will be charged to the CCTV Partnership at the same rate and in the same manner that Medway charges its internal departments and to each Council in the Agreed Proportions

### **3.6 Accommodation and Equipment**

**3.6.1** The accommodation and any equipment contributed by the Councils at Commencement for the discharge of the CCTV Services and described in the Asset Register (or and replacements or substitutes therefor) shall be made available for the use of the CCTV Partnership from Commencement during the Term but each item shall remain in the ownership of the Council which purchased or otherwise acquired it

- 3.6.2** Details of the CCTV control room operated by Medway at Commencement for the undertaking of the CCTV Services is set out in **Part 1 of Appendix 4** (the Asset Register)
- 3.6.3** Details of equipment held by the Councils at Commencement for the undertaking of the CCTV Services are set out in **Part 2 of Appendix 4** (the Asset Register)
- 3.6.4** The Asset Register shall indicate whether the accommodation is in a particular case to be made available for the use of the CCTV Partnership by each Council by licence or lease or other terms of use
- 3.6.5** The Asset Register shall be updated by the Head of the CCTV Partnership throughout the Term to record replacement and additional accommodation and equipment acquired for the use of the CCTV Partnership and their terms of use and ownership if applicable
- 3.6.6** Replacement and additional control centre and field equipment may be procured by Medway on behalf of the relevant Council. This shall be funded directly by the relevant Council
- 3.6.7** Routine maintenance of the control centre and field equipment (including call-outs and repairs) will be procured by Medway on behalf of the Councils through one or more contracts in accordance with the specification attached at Appendix Seven. Through the procurement an individual price for the maintenance of each Council's equipment shall be obtained and each Council will be responsible for the cost of the maintenance and repair of its equipment. The Budgetary Contribution from each Council shall cover the cost of routine maintenance of the equipment in Medway's control centre plus the cost of maintenance of the following number of cameras per Council:

Gravesham: **57**

Medway: **87**

**3.6.8** The costs of repair maintenance and replacement of fibre to any CCTV camera from a Council's control centre will remain the responsibility of that Council. The fibre connecting the existing control rooms of each Council to the Medway CCTV control centre will be repaired, maintained and replaced by Medway but the costs thereof will be reimbursed by the relevant Council to Medway within 21 days of receipt of an invoice.

Medway will agree any costs with the relevant Council prior to undertaking the works and shall not be liable for any failure to provide or inadequacy in the CCTV Services which is caused by lack or repair of such fibre, unless such is caused by a breach of this clause by Medway

**3.6.9** The costs of Facilities shall be agreed in the business plan for the relevant year

### **3.7 Computer Hardware and Software**

3.7.1 No computer hardware or software shall be introduced into existing Medway network systems by the CCTV Partnership other than those which are agreed beforehand in consultation with Medway's I.T Support Service

3.7.2 Medway shall supply Data relating to a particular Council to that Council within 48 hours of a request and in a format reasonably required by the requesting Council

### **3.8 Contracts**

3.8.1 Medway shall be responsible for the cost of entering into contracts on behalf of the CCTV Partnership at the direction of the Partnership Board and shall be entitled where they have entered in to the contract in good faith to be indemnified by Gravesham as set out in this Memorandum of Agreement or in the absence of any division being specified in this Memorandum of Agreement in such proportions as shall be agreed by the Partnership Board in respect of any such contracts

3.8.2 Every contract for the supply of goods and services to the CCTV Partnership let by Medway shall comply with the Financial and Contract Rules of Medway and all such contracts shall being the name of Medway and shall contain appropriate provisions regarding insurance. Medway shall, unless otherwise agreed by the Partnership Board, enforce the terms of such contracts, including any contracts assigned to Medway by any of the other Councils

3.8.3 Medway shall maintain a register of contracts entered into during the term pursuant to **clause 3.8.2**

### 3.9 **Quality Management and Service Levels**

The Quality Management and Service Levels proposals for the CCTV Partnership shall, other than where contained in Appendix One of this Memorandum of Agreement be included in the draft Business Plan to be presented to the Partnership Board in accordance with **clause 3.11** and shall, once agreed, be complied with by Medway (and where appropriate by the other Councils)

### 3.10 **Risk Management and Business Continuity**

- 3.10.1 The CCTV Partnership shall diligently undertake risk management to analyse and manage risk effectively and shall maintain a risk register throughout the Term
- 3.10.2 The Risks identified as a result of any risk assessment and risk assessment process shall be included in the Business Plan and/or shall be notified to the Councils by the Head of the CCTV Partnership
- 3.10.3 The Councils may also undertake risk management to analyse and manage risk effectively and shall notify the CCTV Partnership of the results of any such analyses
- 3.10.4 The Business Plan shall also contain a business continuity plan and disaster recovery plan

### **3.11 Budget and Business Plan**

- 3.11.1 For each financial year commencing on 01 April 2021 the Head of the CCTV Partnership shall prepare a draft business plan and a revenue budget for approval by the CCTV Partnership. The draft business plan and budget shall be submitted to each of the Councils not later than 1 June in the year prior to it taking effect for their approval before it is adopted by the Partnership Board
- 3.11.2 In addition to the budget for the next year the Head of the CCTV Partnership shall submit indicative budgets for each of the two subsequent years. This will include an annual uplift to be agreed by the CCTV Partnership Board on an annual basis prior to budget setting.
- 3.11.3 Each Council shall notify the CCTV Partnership no later than 30 September in each year of the amount the Council has allocated to the CCTV Partnership from its revenue budget for the next following financial year

and the CCTV Partnership shall not incur expenditure in excess of those amounts without first obtaining the consent of all the Councils.

- 3.11.4 If the amount allocated by any Council in accordance with **clause 3.11.3** is not sufficient to pay for that Council's share of the Shared Costs and the costs of the Operational Staff allocated to that Council, the CCTV Partnership will reduce the resources allocated to that Council and that Council will be responsible for any consequent redundancy costs
- 3.11.5 The budget and business plan shall set out the extent to which any surpluses and deficits of the CCTV Partnership are to be applied in the year covered by the budget and business plan and the purposes for which the surpluses are to be applied
- 3.11.6 The Councils will comply with the budget and business plan timetable set out in Appendix 6

### **3.12 The Agreed Proportions and the Budgetary Contributions**

- 3.12.1 At Commencement and for the Term the Agreed Proportions and the basis for the division of the costs of the CCTV Partnership shall be as indicated in **Appendix 5**
- 3.12.2 Each Council's Budgetary Contribution will be set out and approved in the budget and business plan for each financial year.
- 3.12.3 The Budgetary Contributions will be the amount required to fund the costs of provision of the CCTV Services and the Support Services and shall be paid in accordance with the principles set out in Appendix 5
- 3.12.4 Except where otherwise indicated in this Agreement the costs incurred by the CCTV Partnership in undertaking the CCTV Services shall be shared by the Councils in the Agreed Proportions

3.12.5 During the Term the Councils shall each pay their respective Budgetary Contributions in advance on 1 April each year

**3.13 Accounts, Audit, Banking and Investment**

3.13.1 Medway will ensure that effective and appropriate arrangements are in place for accounts, audit and performance management, which will be outlined in the CCTV Partnership's annual Business Plan and reported upon in each annual review

3.13.2 The accounts of the CCTV Partnership shall be maintained by Medway in accordance with the CIPFA Best Value Accounting Code of Practice ("the CIPFA BVACOP") and shall be submitted to a meeting of the Partnership Board for approval not later than two months after the end of each financial year and a copy shall be sent to each of the Councils by 31 May following the end of the financial year. The Councils will be provided with analysis necessary to allow the Councils to comply with the CIPFA BVACPO in preparing their respective accounts

3.13.3 An internal auditor appointed by Medway shall have full access to the financial records of the CCTV Partnership. Internal and external auditors from any of the Councils may on written request by the respective Councils from time to time have full access to the financial records of the CCTV Partnership

3.13.4 The accounts together with all relevant records and supporting vouchers of the CCTV Partnership shall be audited by an auditor appointed by the Audit Commissions and shall be open to inspection by the Councils and as required by law

3.13.5 Any surplus not required by the current Business Plan, subject to **clause 3.11.4.** shall be ring fenced within the CCTV Partnership for future

inclusion in the Business Plan unless Council indicates in writing that it wishes to withdraw its share of the surplus and if it does, it will be entitled to be paid the share of the surplus agreed by the Partnership Board within 21 days of such agreement and the Partnership Board shall have the regard to the source of the surplus which has arisen in deciding a Council's share of the surplus

3.13.6 Subject to agreement with Her Majesty's Revenue and Customs Medway shall account for VAT in respect of the CCTV Partnership

3.13.7 Payments made and received by the CCTV Partnership shall made from or paid into Medway's general bank account

#### **3.14 Insurance**

3.14.1 Medway shall take out and maintain adequate insurance cover as reasonably required by the CCTV Partnership and ensure that the other Councils' interests are noted on the policy of policies in respect of any employers and professional indemnity liability arising from the discharge of the CCTV Functions and insurance for the infrastructure within the Medway Council's Control Centre for the duration of this Agreement and for a period of twelve years after termination of this Agreement. Such insurance cover(including the payment of premiums) shall be included within the arrangements for Support Services as provided by **clause 3.5**

3.14.2 Medway shall forthwith on written request from time to time provide to other Councils documentary evidence that the insurances required have been taken out and are being maintained by it

#### **3.15 Litigation**

3.15.1 To the extent that the institution and defence of necessary litigation arising out of the exercise of the CCTV Functions or provision of the CCTV

Services during the Term is not undertaken by an insurer acting for any of the Councils it shall be undertaken by the legal advisors for such of the Councils as may be agreed by the Partnership Board

3.15.2 All claims or potential claims received by a Council shall be notified to the others within seven days

3.15.3 Each Council will afford all reasonable assistance to the other Councils and their insurers in defending any claims

### **3.16 Liabilities occurring prior to this Agreement**

Each Council ("the Responsible Council") shall retain responsibility for (and for meeting the costs of the conduct of including settlement of) any action or claim relating to the provision of its CCTV Services which is pursued within the relevant time limitation period whether made before on or after the date of this Agreement which is founded on any act, omission or default of the Responsible Council occurring before the date of this Agreement

### **3.17 Liabilities during and after the Term**

Other than as otherwise set out in this Agreement, all liabilities incurred by the councils under the auspices of the CCTV Partnership in discharging the CCTV Functions of carrying out the CCTV Services including any continuing obligations and liabilities after termination of the Agreement shall be shared in accordance with the last estimate of the Agreed Proportions. A Council shall not be liable under this clause for obligations and liabilities arising at any time as a result of any action or omission occurring while that Council is not a member of the CCTV Partnership

### **3.18 Duration of Agreement and option to extend**

3.18.1 This Agreement shall come into force on Commencement and subject to the provisions of **clause 3.19** and **3.20** shall continue for the Term

3.18.2 The Term may be extended by agreement between the Councils or if applicable, the remaining Councils for such period or periods as they shall determine

### **3.19 Withdrawal from the CCTV Partnership**

3.19.1 If a Council wishes to withdraw from the CCTV Partnership it shall give at least 12 months written notice to expire on the 31 March in any year (unless the Councils and the Partnership Board agree to a different period of notice or date of expiry of notice) to the Head of the CCTV Partnership and to the Chief Executives (or other nominated officer) of the other Councils. During the notice period the withdrawing Council will honour its obligations by paying its Agreed Proportion for the notice period in full

3.19.2 In the event of withdrawal of any Council the provisions of **clause 3.3.6** and **3.21** shall apply

### **3.20 Termination**

3.20.1 This Agreement shall terminate completely :-

3.20.1.1 By the mutual agreement of the Councils remaining in the CCTV Partnership

3.20.1.2 On expiry of the Term

### **3.21 Exit Arrangements**

3.21.1 The provision of **clauses 3.21.2 to 3.21.9** shall apply:-

3.21.1.1 In the event of the termination of this Agreement on the happening of one of the events described in **clause 3.20** and

3.21.1.2 The withdrawal of a Council as described in **clause 3.19.1**

- 3.21.2 In the event that this Agreement is to be terminated or notice of withdrawal has been given the Councils agree to co-operate to ensure an orderly withdrawal or termination
- 3.21.3 Medway, as host council, will be responsible, post termination of this Agreement, for winding up outstanding partnership affairs. This would include amongst other matters production of final accounts and the settlement of outstanding debtors and creditors
- 3.21.4 The CCTV Partnership does not have a discrete legal identity in its own right and is therefore incapable of accruing legal liability for acts and omissions as a partnership or of owning the equipment and facilities of which they have use. The general principle to be applied is that assets will remain in the ownership of the Council which purchases them and in the event of termination of the CCTV Partnership or withdrawal they will transfer to the direct control of the relevant Council(s). The Councils agree to use their best endeavours to agree the transfer of assets purchased after the Commencement so as to enable each of the Councils to be in a reasonable position to provide their respective CCTV Functions
- 3.21.5 Any surpluses after deducting all outstanding costs and liabilities shall on termination or the withdrawal of a Council be divided between the Councils in the Agreed Proportions
- 3.21.6 Should Medway Council on behalf of the CCTV Partnership own any asset which are shared by the Councils through the CCTV Partnership or have any liabilities related to the CCTV Services at the date that the Agreement is terminated in full then each Council will receive either a portion of the net assets or a cash equivalent (based on a valuation of the assets on a net book value basis) This will be based on the Agreed Proportion in the

financial year in which the Agreement is terminated. If liabilities are greater than assets then the liabilities will also be shared in the Agreed Proportions

3.21.7 A withdrawing Council shall not be entitled to a share in the jointly shared assets on withdrawal

3.21.8 In respect of Data the following shall apply:-

3.21.8.1 During its operation the CCTV Partnership will accumulate a large amount of Data in its provision of CCTV Services. On the termination of this Agreement all of the Councils or in the case of the withdrawal of a Council pursuant to **clause 3.19.1** the withdrawing Council will take possession of any Data held in respect of their or as the case may be, its administrative area

3.21.8.2 When any Council terminates its involvement in this Agreement for whatever reason (and this clause shall survive the termination of the Agreement) Medway shall ensure that within 28 days after the date the termination takes effect the Council terminating its participation in this Agreement receives a list of all Data the CCTV Partnership possesses which relates to the terminating Council

3.21.8.3 If a Council serves a notice on the CCTV Partnership in accordance with **clause 3.21.8.1** then the CCTV Partnership shall within 14 days of receipt hand over to the Council the Data specified in the notice (in such format as the Council shall reasonably require) and destroy the rest of the Data relating to the terminating Council except where these are necessary for accounting/auditing/legal purposes

3.21.9 The full direct costs of dissolving the CCTV partnership, including the disposing of assets, continuing necessary storage of material and disposal or re-organisation of building accommodation, will be met by the Councils in accordance with the Agreed Proportions which applied during the financial year in which the decision to dissolve the CCTV Partnership was made. Any costs of dissolving the CCTV Partnership relating to Staff, including redundancy and early retirement of Staff will be shared in accordance with the proportions set out in **clause 3.3.5**

3.21.10 Each Council shall remain liable to the CCTV Partnership for any continuing obligation of the CCTV Partnership which was created prior to the date of its withdrawal or the termination of the Agreement to the extent of its Agreed Proportion

### 3.22 **Additional Authorities**

3.22.1 Subject to **clauses 3.22.2** and **3.22.4** if first agreed by the councils and the Partnership Board one or more Additional Authorities may join the CCTV Partnership from time to time and for such period of periods and upon such terms as the Councils and the Partnership Board shall determine

3.22.2 Before an Additional Authority shall be permitted to join the CCTV Partnership a due diligence investigation of the Additional Authority and an evaluation of the benefits to the CCTV Partnership of its membership shall be carried out

3.22.3 Before an Additional Authority shall be permitted to join the CCTV Partnership each of the Councils shall first agree to the Additional Authority joining the CCTV Partnership

3.22.4 The Additional Authority shall be required to pay the reasonable costs incurred by the Councils and the CCTV Partnership in dealing with the

application to join the CCTV Partnership including all reasonable costs incurred in the integration of the Additional Authority into the CCTV

3.22.5 From the date and Additional Authority joins the CCTV Partnership references in this document to “councils” shall include that Additional Authority

### **3.23 Dispute Resolution**

3.23.1 The Councils will use their best endeavours to negotiate in good faith and settle expeditiously any question dispute or difference that may arise out of or relate to this Agreement or any breach of it. If any such question dispute or difference cannot be settled amicably by the means set out in the Partnership Board terms of reference within 10 working days from referral it may within a further period of 10 working days be referred to a Partnering Advisor appointed between the parties or in default of agreement as to such appointment within such period to a Partnering Advisor appointed within the next following period of 5 working days in accordance with **clause 3.23.3**

3.23.2 Each Council will provide the Partnering Advisor or the arbitrator to whom a reference is made under this **clause 3.23** with such information as he or she may reasonably require for the purposes of his or her determination. If a Council claims any such information to be confidential to it then provided in the opinion of the Partnering Advisor or arbitrator confidentiality has been properly claimed the Partnering Advisor or arbitrator will not disclose the same

3.23.3 If any matter is referred for arbitration a single arbitrator shall be appointed by agreement between the Councils in dispute or in default of such agreement to be appointed by the President for the Institute of

Arbitrators and the decision of such arbitrator shall be final and binding  
and the Arbitration Act 1996 shall apply to such a reference

3.23.4 The costs of the appointment of the Partnering Advisor and of the  
arbitrator (including the costs of any technical expert appointed by him or  
her or them) will be borne equally by the councils in dispute

3.23.5 Nothing in this **clause 3.23** will restrict the Councils' freedom to :-

3.23.5.1 Commence legal proceedings to preserve any legal right or  
remedy; and

3.23.5.2 Apply to the Courts to determine any question of law arising in  
the course of the reference; and

3.23.5.3 Appeal to the Courts on any question of law arising out of any  
award made in arbitration under this Agreement

#### **3.24 Confidentiality**

The Councils will at all times keep Confidential Information acquired  
in consequence of this Agreement confidential, except for information which they  
may be entitled or bound to disclose under compulsion of law or where  
requested by regulatory agencies or to their professional advisers where  
reasonable necessary for the performance of their professional services

#### **3.25 Variations and Review of Memorandum of Agreement**

3.25.1 Any of the terms of this Agreement may at any time be varied or amended  
by deed executed by both Councils

3.25.2 The Councils and the CCTV Partnership may jointly review the provisions of  
this Agreement annually, or at other intervals agreed by them, to consider  
whether any changes should be made. If any changes are agreed they shall  
be recorded by deed executed by both Councils

### **3.26 Access to Information and Ombudsman Complaints**

- 3.26.1 The Councils acknowledge that they have duties and obligations under the Information Legislation which may require the release of information relating to the CCTV Partnership or CCTV Services
- 3.26.2 Each Council shall assist and co-operate with the other councils to enable the responding Council to comply with any statutory information disclosure provisions
- 3.26.3 A Council which receives an information request relating to the CCTV Partnership or CCTV Services shall be responsible for processing and responding to that request
- 3.26.4 If a Council receives a request for information under the Information Legislation in respect of the CCTV Partnership or any CCTV Services, it shall notify the Head of the CCTV Partnership within two working days of receipt of the request for information and shall consider any representations made by the Head of the CCTV Partnership within five further working days in making a decision on whether to release or withhold any information
- 3.26.5 The Head of the CCTV Partnership shall maintain a register of all requests for information received concerning the CCTV Partnership
- 3.26.6 Each Council shall assist and co-operate with the other Councils with regard to any complaint against a Council made to the Information Commissioner or the Local Government Ombudsman including the provision of relevant information

### **3.27 Data Protection and use of Data**

- 3.27.1 The terms of this clause prevail over all other conditions or terms of this Agreement whether express or implied

- 3.27.2 The terms of this clause shall not be interpreted as allowing either the CCTV Partnership or the Councils to do anything which it or they are precluded from doing by other contractual terms, apart from things which a Council must do in order to comply with these terms
- 3.27.3 Medway shall ensure that in carrying out its obligations under the Agreement it and the Staff engaged in providing services for the CCTV Partnership :-
- 3.27.3.1 Do not access or carry out any action to process (including without affecting those general words copying it and storing it) any Data except in accordance with the terms of this Agreement or instructions given by a Council with regard to the Council's Data
- 3.27.3.2 Comply with any instruction given by a Council with respect to the Council's Data
- 3.27.3.3 Do not allow any Data or a copy of it to leave the European Union without the relevant Council's prior written permission
- 3.27.3.4 Do not disclose any Data to any other person without the relevant Council's prior written permission (this sub-paragraph does not prevent a Council from disclosing to its employees (which in expression shall in this **clause 3.27** include any of the Staff) and who have a need to access the Data in order to perform any of the Council's statutory obligations or obligations under this Agreement
- 3.27.4 Where any of the employees of the Councils are able to access Data of the CCTV Partnership without being present on the premises occupied by Staff engaged in providing the services of the CCTV Partnership then they shall not be permitted to access it except in accordance with instructions given by the Staff and shall ensure that passwords and telephone numbers are

not disclosed to any other person (whether employed by any of the Councils) who does not have a need to know them

- 3.27.5 Where an item of equipment is able to access any of the Data without employees of the Councils entering in a security code or password (for example because the password is recorded on the Councils' equipment) then the Councils shall ensure that this equipment is kept physically secure so as to comply with the Data Protection Act 2018
- 3.27.6 The Councils shall ensure that all passwords and security codes are kept securely
- 3.27.7 The Councils shall comply with any code of practice or guidance issued by the Information Commissioner concerning security of Data
- 3.27.8 Subject to the provisions of the Data Protection Act 2018 the Councils agree to the sharing of Data by the Councils within the CCTV Partnership for the purposes of enabling the provision of the services referred to in **clause 3.1**
- 3.27.9 Medway shall ensure that at least one of the Staff engaged in the provision of the CCTV Services is appointed a data protection officer responsible for facilitating the implementation of and compliance with the Data Protection Act 2018 and other relevant legal requirements in relation to privacy

### **3.28 Notices**

- 3.28.1 Any notice to be served on Medway as the host council for the CCTV Partnership shall unless otherwise stated in this Agreement to be addressed to and served upon the Head of the CCTV Partnership at Gun Wharf, Dock Road, Chatham, Kent ME4 4TR or to such other address as that Medway shall have previously notified to the other Councils

- 3.28.2 Any notice to be served on the Councils (other than Medway) shall unless otherwise stated in this Agreement be addressed to and served upon the Chief Executive for the time being at the address set out for that Council in this Agreement (or other officer/address nominated from time to time for the purpose and notified to the other Councils in writing)
- 3.28.3 All notices to be given under this Agreement shall be in writing and shall either be delivered personally or sent by first class pre-paid post or facsimile transmission or electronic transmission (e-mail) and shall be deemed duly served:-
- 3.28.3.1 In the case of a notice delivered personally, at the time of delivery
- 3.28.3.2 In the case of a notice sent by first class pre-paid post, two clear business days after the date of dispatch
- 3.28.3.3 In the case of facsimile transmission, if sent during normal business hours then at the time of transmission and if sent outside normal business hours then on the next following business day provided (in each case) that a confirmatory copy is sent by first class pre-paid post or by hand by the end of the next business day
- 3.28.3.4 In the case of electronic transmission, if sent during normal business hours then at the time of transmission and if sent outside normal business hours then on the next following business day provided (in each case) that no failure to receive response is received by the sender and that a confirmatory copy is sent by first class pre-paid post or hand by the end of the next business day

### **3.29 Severability**

If a term or provision of this Agreement is held in whole or in part to be invalid, illegal or unenforceable for any reason that term or provision or part shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected

### **3.30 Governing Law and Jurisdiction**

The formation of this Agreement and all matters or disputed arising under or in connection with it shall be governed by English law and (without prejudice to the provisions relating to Dispute Resolution in **clause 3.23** above) subject to the jurisdiction of the English law

### **3.31 Contracts (Rights of Third Parties) Act 1999**

Notwithstanding any other provision of this Agreement nothing in this Agreement confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it

### **3.32 Selection for Redundancy**

Where pursuant to this Agreement any of the Staff employed by Medway are to be made redundant the selection of such staff for redundancy shall (unless something different is specifically agreed in writing at the time by the parties to this agreement) be made fairly and in good faith in accordance with the Medway "Organisational Change Policy (including redundancy)" June 2011 and, where amended, such policy as amended which is in force within Medway at the date that the redundancy consultation starts.

**IN WITNESS** whereof the Councils have caused their respective Common Seals to be  
hereunto affixed the day and year first above written as their Deed

**THE COMMON SEAL OF GRAVESHAM )**

**BOROUGH COUNCIL was hereunto )**

**Affixed on the authority of )**

**Authorised Signatory**

**THE COMMON SEAL OF MEDWAY )**

**COUNCIL was hereunto )**

**Affixed on the authority of )**

**Authorised Signatory**