

Date: April 2008

HEADS OF AGREEMENT

Relating to the incorporation of the
Yorkshire Humberside Regional Control Company Ltd

Robin Graham LLB Solicitor
Secretary & Director of Corporate Administration
Humberside Fire Authority

HEADS OF AGREEMENT –

YORKSHIRE HUMBERSIDE REGIONAL CONTROL COMPANY

1. **Purpose of the Heads of Agreement** : The Heads of Agreement set out the intention of the Parties and the agreed key principles upon which the Yorkshire & Humberside Regional Control Company (YHRCC) shall be incorporated and the contractual framework established.

In particular, the Heads of Agreement shall ensure that:

- 1.1 the YHRCC is established in accordance with the agreed principles set out below;
- 1.2 the YHRCC is established more quickly and effectively;
- 1.3 the constituent Fire Authorities are able to approve the key principles;
- 1.4 in principle, the initial operation and initial funding of the YHRCC is agreed;
- 1.5 the mechanism for ongoing funding of the YHRCC is, so far as practicable, agreed;
- 1.6 the contractual framework reflects and is consistent with the agreed principles set out below;
- 1.7 Hammonds are instructed to draft the Memorandum and Articles of Association of the YHRCC and a Member/Shareholders Agreement strictly in accordance with the Heads of Agreement.

2. **Definitions** : **'Agreements'** means the contractual framework set out in paragraph 24.

'Contractual Framework' means the agreements set out in paragraph 24.

‘Constituent Authorities’ means Humberside Fire Authority, North Yorkshire Fire and Rescue Authority, South Yorkshire Fire and Rescue Authority and West Yorkshire Fire and Rescue Authority.

‘Company’ means Yorkshire and Humberside Regional Control Centre.

‘YHRMB’ means the Yorkshire Humberside Regional Management Board.

‘Date of transfer’ means 30th September 2008 or such other date as may be agreed.

‘YHRCC’ means the Yorkshire Humberside Regional Control Centre.

- 3. Parties** : Humberside Fire Authority
North Yorkshire Fire and Rescue Authority
South Yorkshire Fire and Rescue Authority
West Yorkshire Fire and Rescue Authority

(to be known as the Constituent Fire Authorities)
- 4. Purpose of YHRCC** : YHRCC shall on the date of transfer operate a call handling and mobilisation service for the constituent Fire Authorities, as part of a national resilience network.

No other function shall be exercised by the YHRCC, unless by unanimous agreement.
- 5. Date for incorporation** : 30th September 2008
- 6. Members of YHRCC** : To be limited to 4 Members (the Constituent Fire Authorities), unless unanimous agreement otherwise.
- 7. Sovereignty** : The sovereignty of each constituent Fire Authority shall be preserved within the contractual framework. Nothing in the contractual framework shall impact upon the IRMP or the functions, powers or duties vested in each constituent Fire Authority. There shall be no delegation to the Company other than as expressly set out and agreed.

- 8. Corporate Directors** : It is probable that at least one of the four constituent Fire Authorities will seek (as a body corporate) to be appointed as a Corporate Director of the YHRCC. The Corporate Director will nominate its allocated number of representatives to the Board of Directors of the YHRCC. The Memorandum and Articles should permit, so far as possible, all constituent Fire Authorities to become Corporate Directors. Should a 'Human' Director be required under the Companies Act 2006, then flexibility should be incorporated, with a preference for the Secretary to become a non voting Director, for compliance purposes only.
- 9. Directors Voting Rights** :
Humberstone: 2 votes
(2 representatives)
North Yorkshire: 2 votes
(2 representatives)
South Yorkshire: 3 votes
(3 representatives)
West Yorkshire: 4 votes
(4 representatives)
- 10. Rotation of Chairperson** : The position of Chairperson will be elected annually, but there will be no rotation.
- 11. Vice Chairperson** : There will be no Vice Chairperson of the YHRCC. Should the Chairperson not be present at a meeting within a specified time, then the Members present will elect a Chairperson for that meeting. That Chairperson will be empowered to exercise a second or casting vote.
- 12. Casting Vote** : The Chairperson shall be entitled to exercise a second or casting vote.
- 13. Appointment of Proxies** : A power to appoint proxies shall be provided.
- 14. Frequency of Director meetings** : The calling of meetings shall be at the discretion of the Directors of the YHRCC. However, as a matter of principle, it is agreed that the meetings of Directors shall comprise as a minimum:

1. Setting Annual Budget and Performance Targets in consultation with the constituent Fire Authorities.
2. Mid-year review of 1.
3. Annual Financial Statements and Annual Performance/Audit Review.

15. Quorum for Directors Meetings : No business shall be transacted unless there are at least eight 'Human Directors' or eight nominated Director representatives present and entitled to vote.

16. Operational Management : It is agreed that the YHRCC shall establish an operational management board comprising the Centre Manager and representatives of each constituent Fire Authority (as may be agreed). The Operational Board will operate separately from the Board of Directors, and will be responsible for day to day operational management of the Control function.

17. Centre Manager : The YHRCC shall appoint a Centre Manager. The Centre Manager shall report to the Board of Directors, but shall not be a member of the Board.

With respect to the initial appointment of a Centre Manager, West Yorkshire Fire Authority shall take the role of lead Authority. The appointments panel will be agreed by the YHRMB. The first employer shall be the West Yorkshire Fire Authority. The Centre Manager shall transfer employment automatically to the YHRCC upon incorporation.

The contractual framework will provide agreed procedures for the appointment of a Centre Manager.

18. Employment of Staff : The YHRCC shall appoint such, and as many, staff as it considers necessary for the proper performance of its obligations, having due regard to the contractual framework, TUPE and the views of the constituent Fire Authorities.

- 19. Transfer of relevant employees** : The intention of the Parties shall be that where relevant staff are unable to transfer, then the Parties shall work together to facilitate and support the redeployment of relevant staff.
- 20. Appointment of Secretary and Financial Adviser to YHRCC** : Unless the constituent Fire Authorities and the YHRCC agree otherwise, the functions of Company Secretary and Financial Adviser shall be provided by the constituent Fire Authorities. Unless there were exceptional circumstances, it is agreed as a principle that the role of Company Secretary and the role of Financial Adviser shall not be provided by the same Fire Authority. Moreover, it is further agreed that such appointments will be subject to rotation, every three years wherever practicable, or may be reviewed at any time as agreed by the Directors.
- 21. Other Officers of the YHRCC (not being employees of the YHRCC)** : It is agreed that the YHRCC shall, in consultation with the constituent Fire Authorities, appoint:
1. An external legal adviser to the YHRCC, not being an officer of the constituent Fire Authorities.
 2. External Auditor, in consultation with the Audit Commission.
 3. Such other officers which may be required for the effective and efficient operation of the YHRCC. Such officers may, for example, include an internal audit function or HR support or procurement. Such positions may be provided externally by way of a contract for services, or internally by an employee, or through the services of a constituent Fire Authority.
- 22. YHRCC set up costs** : Where any set up costs of the YHRCC are not met in full by CLG funding, then such set up costs shall be apportioned between the constituent Fire Authorities on the following agreed basis:-

Humberside	18%
North Yorkshire	18%
South Yorkshire	24%
West Yorkshire	40%

The set up costs will be defined.

23. YHRCC Financial Formula : The constituent Fire Authorities shall use their best endeavours to agree a financial formula (in respect to the ongoing funding contributions of each Fire Authority) prior to the establishment of the YHRCC. The failure to agree a financial formula may delay the establishment of the YHRCC. The financial formula will set out the respective financial contribution to be made by each Fire Authority to the costs of running the YHRCC. The financial formula will be set out in the contractual framework. The formula shall also include the income (if any) generated by the YHRCC, whether this be by the letting of space at the Centre or otherwise.

24. Contractual Framework : As a condition precedent to the establishment of the YHRCC, the following shall be approved by the constituent Fire Authorities:

1. Shareholders/Members Agreement.
2. Memorandum and Articles of Association of YHRCC.

To the extent that such matters are capable of resolution and agreement by the parties prior to the intended incorporation of the YHRCC by 30th September 2008 the parties agree that they will use all reasonable endeavours to agree to the following prior to that intended incorporation date

3. The key principles of a (Performance) Agreement between the constituent Fire Authorities and YHRCC
4. The key principles of the lease arrangements.
5. The key principles of the national network agreement between the nine Regional Control Companies and CLG.

It is noted that the Fire Authorities may agree to relax the provisions set out above.

25. Performance Agreement : The constituent Fire Authorities and YHRCC shall, as soon as practicable after the incorporation of the YHRCC, enter into a Performance Agreement (such title for the purposes of identification only) which shall set out the obligations of the YHRCC to the constituent Fire Authorities (and the constituent Fire Authorities obligations to the YHRCC).

26. Other YHRCC Agreements : It is probable the YHRCC will be required to enter into a resilience network agreement between all regional control centres and CLG. The YHRCC shall consult and seek the agreement of the constituent Fire Authorities prior to entering into any such agreement.

In respect to any other agreement (above an agreed value) which does not form part of the contractual framework, the YHRCC shall take every reasonable step to consult with the constituent Fire Authorities prior to entering into any such agreement.

27. Decisions requiring unanimous agreement : The following issues shall require the unanimous agreement of the constituent Fire Authorities:

1. Admit a new member of the YHRCC.
2. Amend the agreed financial formula.
3. Amend the Memorandum and Articles of Association.
4. Exercise of a power to diversify.
5. Any merger.
6. Any acquisition.
7. Any proposed Agreement which may relate to the performance or functions of the YHRCC.

8. Any amendment to the contractual framework.

- 28. Name of RCC** : Yorkshire & Humberside Regional Control Centre Company (Limited by Guarantee).
- 29. Legal status of YHRCC** : Company Limited by Guarantee: A Regulated Local Authority Company.
- 30. Delegations** : Any specific delegations which may be required from each shall be set out in the Agreement between the YHRCC and the constituent Fire Authorities.
- 31. Deadlock Provisions** : A mechanism shall be established to enable YHRCC deadlocks to be progressed, so far as is possible. This will link into dispute resolution. The deadlock provision will encourage resolution through independent facilitation and review. A mechanism to identify an independent person/body shall be incorporated into the contractual framework and the YHRCC Memorandum and Articles of Association.
- 32. Surplus Distribution** : The Memorandum and Articles should permit a 'profit sharing' mechanism, solely to the constituent Fire Authorities. The agreement between the Fire Authorities and the YHRCC shall set out such provisions.
- 33. Shadow Board** : A Shadow Board shall be established by the constituent Authorities.

The Shadow Board will come into operation in January 2008 for the period to incorporation of the YHRCC.

The purposes of the Shadow Board shall be agreed by the constituent Fire Authorities. However, it is likely that, for convenience and continuity, the members of the YHRMB will constitute and act as Shadow Directors of the YHRCC.

- 34. Audit Access** : The constituent Fire Authorities and the YHRCC will grant to each other, for the purposes of internal and external audit, reasonable access to all records and documents relating to the operation and performance of the YHRCC. There shall be reciprocal confidentiality and data sharing provisions within the contractual framework.
- 35. Governance** : The YHRCC, in consultation with the constituent Authorities, shall effect and maintain effective governance arrangements.
- The YHRCC shall, so far as Regulations and Guidance applies, in particular to Member Conduct and Governance (CIPFA/SOLACE Good Framework), ensure that Directors receive sufficient training and support and that such policies and procedures are effective and compliant.
- 36. Power to charge** : To reflect the Fire and Rescue Services (England) (Amendment) Order 2007.
- 37. YHRCC Policies** : The constituent Fire Authorities will work together to ensure, so far as is reasonable and practicable, that upon incorporation the YHRCC has in place an appropriate policy and procedure framework, which shall include (but not be limited to) redundancy, standing orders, FOI, Data Protection, Fraud/Corruption, Equality/Diversity, governance, health and safety, and provision of pension arrangements.
- 38. Termination/Notice** : Should the YHRCC be wound up at any time in the future, then the assets (and liabilities) shall be shared in accordance with the agreed financial formula set out in the contractual framework. Termination of the contractual framework will trigger termination of the YHRCC.
- 39. Withdrawal from YHRCC** : A constituent Fire Authority shall have the ability to withdraw from the YHRCC. This flexibility should be permitted, with certain safeguards agreed. An exit strategy shall be agreed between the Parties. A withdrawal is likely to require consultation, as a minimum,

with the CLG. Exit provisions should be drafted accordingly, which shall provide for rights and liabilities to be realised.

- 40. Remuneration** : The YHRCC shall not pay any remuneration to any representative of a corporate Member/ Director other than reasonable travel and subsistence allowances in accordance with an agreed policy and scheme adopted by the YHRCC.
- In respect to remuneration of officers in support of the YHRCC, these services shall be provided on an agreed recharge basis.
- 41. Financial Treatment** : The annual accounts of the YHRCC shall be consolidated as appropriate.
- 42. Disputes** : A mechanism shall be established for the prompt, effective resolution of disputes, initially at a local level. Disputes should be resolved by external independent arbitration should a dispute not be resolved first at a local level. This will be linked to the deadlock provisions.
- 43. Insurance/Indemnity** : The YHRCC shall arrange and maintain effective insurance provision in respect to its operation. Each constituent Fire Authority will indemnify any Director appointed by it.
- 44. Power to Contract** : The YHRCC shall have a power to enter into contracts, subject to any restrictions set out in the contractual framework.
- 45. Lease** : The YHRCC shall on _____ enter into a lease of the premises known as _____. No lease shall be entered into on behalf of the YHRCC until the Parties are satisfied that the terms of the lease are reasonable and that the YHRCC possesses (or will possess) sufficient funds to meet all costs.
- 46. Reporting arrangements and accountabilities** : There shall be no formal reporting to the YHRMB, other than by agreement between the YHRCC and the constituent Fire Authorities.

During the period of establishing the YHRCC, the Shadow Board will comprise RMB Members, who will act as Shadow Directors.

The YHRCC shall submit such reports to the constituent Fire Authorities upon such a basis and in such a manner as may be reasonably required.

47. Boiler plate clauses : To be agreed and shall include:

Governing law/jurisdiction
Notices
Third Party Rights

It is agreed by the Parties that these Heads of Agreement set the principles upon which the Memorandum and Articles of Association and the contractual framework will be drafted, in readiness for the establishment of the YHRCC in September 2008.

Signed on behalf of:-

Humberside Fire Authority

Date: _____

North Yorkshire Fire and Rescue Authority

Date: _____

South Yorkshire Fire and Rescue Authority

Date: _____

West Yorkshire Fire and Rescue Authority

Date: _____